



# City of Columbia, Missouri

## Meeting Minutes

### Planning and Zoning Commission

---

Thursday, June 6, 2019

7:00 PM

Regular Meeting

Council Chambers

Columbia City Hall

701 E. Broadway

---

#### I. CALL TO ORDER

MS. LOE: I would like to call the June 6, 2019, Planning and Zoning Commission meeting to order.

MS. LOE: Ms. Burns, may we have a roll call, please.

MS. BURNS: Certainly. We have eight; we have a quorum.

MS. LOE: Thank you.

**Present:** 8 - Tootie Burns, Sara Loe, Joy Rushing, Anthony Stanton, Rusty Strodtman, Brian Toohey, Michael MacMann and Valerie Carroll

**Excused:** 1 - Lee Russell

#### II. INTRODUCTIONS

#### III. APPROVAL OF AGENDA

MS. LOE: Mr. Zenner, are there any additions or changes to the agenda?

MR. ZENNER: No, there are not, ma'am.

MS. LOE: Thank you. Can I get a motion to approve the agenda?

MR. TOOHEY: Move to approve the agenda.

MR. ZENNER: I apologize.

MS. LOE: Oh. There is a change, isn't there?

MR. ZENNER: There is a change to the agenda. Wow. I've been so enthralled in our conversation in work session, I completely forgot. You had placed in front of you a request to table an item on this evening's agenda. It was for Case Number 82-2019. No. I apologize; not that one.

MS. LOE: One thirty-one?

MR. ZENNER: One thirty-one, for the approval of a plan amendment out at Lake Broadway. The applicant has requested that to be tabled. It was received late this afternoon. Mr. Palmer will give the staff report on that for you a little bit later, but that is the change to the agenda, so we will do a tabled item before your first subdivision action.

MS. LOE: Thank you. So a motion to approve the agenda, moving Case 131-2019 to the front.

MR. MACMANN: Move to approve as amended.

MR. STRODTMAN: Second.

MS. LOE: Second by Mr. Strodman. Thumbs up approval? Almost unanimous.

Mr. Toohey, do you approve the agenda?

(Unanimous vote for approval.)

MS. LOE: Thank you. Unanimous.

**Motion to approve the amended agenda, moving Case 131-2019 to the front.**

#### **IV. APPROVAL OF MINUTES**

##### **May 23, 2019 Regular Meeting**

MS. LOE: Everyone should have received the May 23rd meeting minutes. Were there any changes or amendments to the minutes? If not, I'll take a motion to approve the minutes.

MR. STRODTMAN: So moved to approve the minutes.

MS. LOE: Moved by Mr. Strodman.

MR. TOOHEY: Second.

MS. LOE: Second by Mr. Toohey. We'll get you later, Mr. Stanton. Thumbs up approval on the minutes?

(Unanimous vote for approval.)

MS. LOE: Unanimous. Thank you.

**Minutes Approved.**

##### **Case # 131-2019**

A request by Crockett Engineering (agent) on behalf of Fifth Street Properties, LLC and the Broadway Office Park Condominium Association (owners) for a major amendment to the Lake Broadway Lot 4A PD Plan. Modifications to the plan include a newly-designed building on Lot 4A, redesigned parking areas and drive aisles, and an additional vehicular access point from the Gary Street to the north. The subject site is located southeast of the intersection of Pershing Road and Gary Street, and contains 2.27 acres.

MS. LOE: May we have a staff report, please?

MR. PALMER: Thanks, Madam Chair. As Mr. Zenner stated, the applicant has requested to table this item. They've actually requested June 20th, so just our next meeting. From my understanding, there are some issues with ownership signatures on the PD plan, question of who should be signing and who shouldn't, so they're just trying to get that cleared up. Everything else is ready to go.

MS. LOE: Thank you.

MR. PALMER: Yeah.

MS. LOE: Are there any questions of staff on this? Mr. MacMann?

MR. MACMANN: Just again, and I guess I could ask Mr. Crockett. This is -- the 20th is enough time?

MR. PALMER: That's the date indicated the letter, yes.

MR. MACMANN: Thank you.

MS. LOE: Any additional questions of staff? Seeing none. This is a tabling action, but it was called at the last minute, so I would like to open the floor to any public who may have comments on the tabling action. Seeing none, I'm going to close the public comment period. Motion on tabling?

Mr. MacMann?

MR. MACMANN: If there are no -- in the case of 131-2019, a request by Crockett Engineering on Fifth Street Properties, LLC, and Broadway Office Park for the major amendment to Lake Broadway Lot 4A PD plan, I move to table it to date certain 20 June 2019.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. I told you we would get you later, Mr. Stanton. We have a motion on the floor. Any discussion on this motion? Seeing none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Strodtman,  
Ms. Rushing, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. MacMann, Mr. Stanton. Motion carries 8-0.**

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Thank you. Recommendation for tabling will be forwarded -- do we forward those to City Council? No. Recommendation for tabling is approved.

**In the case of 131-2019, a request by Crockett Engineering on Fifth Street Properties, LLC, and Broadway Office Park for the major amendment to Lake Broadway Lot 4A PD plan, move to table it to date certain 20 June 2019.**

**Yes:** 8 - Burns, Loe, Rushing, Stanton, Strodtman, Toohey, MacMann and Carroll

**Excused:** 1 - Russell

## **V. SUBDIVISION AND DESIGN ADJUSTMENT REQUESTS**

### **Case # 82-2019**

A request by Crockett Engineering (agent) on behalf of Seventh Street Properties of Columbia, LLC and Hulett Descendants, LLC (owners) for a two-lot final minor subdivision to be known as "My Backyard" and design adjustments from Section 29.5.1(c)(7) and Appendix A pertaining to the

dedication of right of way (ROW) and corner truncations for alleys and Section 29-5.1(g)(4) pertaining to the dedication of utility easements. Subject property is currently improved with "My House and My House- The Backyard" a bar and entertainment venue. The purpose of the replat is to allow a new structure to be built on the Sixth Street frontage. The site is zoned M-DT (Mixed-Use Downtown) and addressed 119 S. Seventh Street and 120 S. Sixth Street. is located with frontage on both Sixth and Seventh Streets south of the public alley between Cherry and Locust Streets. **(This item was tabled at the April 4, 2019 Planning Commission meeting).**

MS. LOE: May we have a staff report, please?

Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff recommends:

1. Denial of the requested design adjustments to Section 29.5.1(c)(7) and Appendix A pertaining to the dedication of right of way and corner truncations for alleys.
2. Denial of the requested design adjustment to Section 29-5.1(g)(4) pertaining to the dedication of utility easements, and
3. Denial of the final plat.

Alternatively, if the Commission supports granting one or more of the design adjustments, it may:

1. Make a motion to approve one or more of the requested design adjustments; and
2. Make a motion to approve the final plat subject to correction of any unapproved design adjustments prior to forwarding the item to City Council for consideration.

MS. LOE: Thank you, Ms. Bacon. Before we move on to staff questions, I would like to ask any Commissioner who has had any ex parte prior to this meeting relating to Case 82-2019 to share that with us now so all Commissioners have the same information on behalf of this case. Seeing none. Are there any questions for staff?

MS. RUSHING: I have a procedural question.

MS. LOE: Ms. Rushing?

MS. RUSHING: If we agree that the design adjustments should be denied, can the plat move forward?

MR. ZENNER: The plat should at that point be recommended for denial. It is not capable of being approved as presented since it is noncompliant. The four criteria or the four options that exist within the Code for Planning Commission approval are approval, approval with conditions, denial, or tabling.

MS. RUSHING: Okay.

MR. ZENNER: So our recommendation would be if you find that the design adjustments should not be approved, that you would deny the plat. It is much cleaner that way. The applicant has and is entitled to seek relief at the Council level, so that recommendation would be forwarded. And Council, should they decide to approve the plat, they would also have to override the denial of the design adjustments by a two-thirds majority vote of their body.

MS. RUSHING: So we could have a motion to deny the plat? We would not need to have a motion to deny the design adjustments?

MR. ZENNER: You will need to deny the design adjustments because the design adjustments are what are triggering the public hearing here this evening.

MS. RUSHING: Okay.

MR. ZENNER: So they are separate actions, but they are related. And the staff's position is is when the design adjustments in whole are denied, the plat, as presented, cannot be presented forward with a recommendation of approval. It just -- it doesn't -- it's not congruous, it's not possible.

MS. RUSHING: Okay. So if we deny the adjustments, do we need to vote on the plat denial?

MR. ZENNER: Yes.

MS. RUSHING: Okay.

MR. ZENNER: You would need to deny the plat, as well. Formally deny the plat because it is an issue. And the rationale behind that is because the plat incorporates the design adjustments, so both actions have to be voted on separately.

MS. LOE: Mr. MacMann?

MR. MACMANN: That answers -- that answers my question. Thank you.

MS. LOE: To follow up on Ms. Rushing's question, do we need to make a motion for each of the design adjustments?

MR. ZENNER: That would probably be best, depending on how Council would receive your recommendation then. Any denied design adjustment requires a two-thirds majority override by the Council. So if you are going to do a mixed bag on those design adjustments, it would be best to do them independently.

MS. LOE: Thank you. Any additional questions for staff? I see none. We will open up the floor for public comment.

#### **PUBLIC HEARING OPENED**

MS. LOE: Please give your name and address for the record. If someone is speaking for a group, you have six minutes to speak. If you're speaking as an individual, you have three minutes to speak.

MR. CROCKETT: Thank you. Madam Chair, members of the Commission, Tim Crockett, Crockett Engineering; offices at 1000 West Nifong, here. Ms. Bacon gave a fairly accurate overview of what is before you tonight, which is a subdivision plat along with three design modifications. It is a final plat of two commercial lots. Originally, the tracts were legal before the UDC came into effect. We've done modifications to the original part -- the original lot that was to the east. We've also done some modification to the lot that's to the west. Both of those were legal prior to the issuance of the UDC. That is the reason why we're here tonight is that we are continuing our project and doing some additional building on the lots and, of course, now we have plat them under the UDC requirement. Again, there is a copy of the final plat. I think the plat is fairly straightforward. I don't think there's any -- much question about that. I think staff would agree to that. I think the issues relies in the design modifications themselves. The first design modification is the alley right-of-way width. That's this section right here, our north property line of the two tracts. Again, if we were forced to grant additional right-of-way, what's currently there is 15 feet. If we're forced to grant two and a half additional feet, that would cause our existing building to be in the right-of-way, as well as the newly constructed amenities that we've constructed on the westerly lot. You can see those amenities or those improvements here. It's hard to tell, but there is a retaining wall on our property. It steps down from the alley down onto our property. We also have fence. We have, you know, posts and we also have an existing building that would lie in the right-of-way itself. That creates a concern. In the staff report, it states, If these three design adjustments are not granted, parts of the existing My House building and existing retaining wall may encroach into the newly dedicated areas of the plat. The applicant may request a right-of-use permit from the City if desired to continue to encroach into the dedicated areas. So, basically, what they're saying is we are -- if we grant the right-of-way, the City may allow us to maintain and keep those facilities in their current location without having to relocate them. But then it says, Should the design adjustments not be granted, the additional right-of-way -- and additional right-of-way dedicated, the applicant will be required to extend the pavement width to the required 16 feet. The right-of-way line is at our existing improvements. Those were built in conformance with the existing regulations at the time. What they're saying is that those improvements can stay in place, but then they turn and say, well, now we have to extend it -- the alleyway by another foot. You can see by the photo on the right that we have a retaining wall, a very tall retaining wall on the other side of the alley. It's very unlikely that a retaining wall will be removed to expand the alley width, so there's contradictions in that design modification right there. We don't know how to -- how to address that. The

second one is the corner truncations. These are at these two locations, at this location on either side of the alley that goes out onto Fifth and Sixth Streets. Again, if they are not granted, the building would be in the right-of-way. The City has approved similar such instances on Walnut and Ninth, Broadway and Hitt, and Fifth Street at Cherry and Locust. That was -- happened to be a City plat. Now those were done in the last two or three years. And as Ms. Bacon says, we want to be fair with everybody. It's -- you know, this is not being consistent. We want consistency. It's a moving target we're trying to hit. The last one is a design modification for the ten-foot utility easement, which is here. That is correct. All subdivision plats must have a ten-foot utility easement adjacent to the right-of-way, and that's typically for nondowntown areas. According to Section 24-4.2(d)(6) of the UDC, and this comes from the architect, we would have to build our building within 24 feet of a setback line. In this case, the setback line is zero feet. So we have to, according to the UDC, our building must be within two feet of our property line. Well, now we can't do that because we have a ten-foot utility easement out there. A similar situation was presented before this Board here not long ago -- I presented it myself -- for the Jefferson Junior Middle School, and where the school itself was going to encroach into the ten-foot utility easement. At the City's request, we granted the easement everywhere we could with the exception of the location in which the building was located. At that point, we went around the building. In this case, they're asking us to put the easement completely opposite. Put the building -- put the easement over the building or under the building. And so again, not very consistent. So in conclusion, the plat conforms to the current standards with exception of the requested design modifications. The two design modifications are similar, if not identical, to others granted in the downtown area. And if you look at the staff reports that were written for those locations; they gave arguments on why they should be given. One of the design modifications wasn't even enforced on the other plats. The other plats that went before that I talked about with the design modifications with regards to corner truncations and right-of-way widths, they weren't required with that to dedicate the ten-foot utility easement. So enforcing the utility easements if required would force the building construction on the site to be out of conformance with the UDC. So we believe that the three design modifications that are presented tonight in accordance with the final plat are consistent with what's been approved in the past, and we ask for your favorable consideration. And with that, I'm happy to answer any questions that you may have.

MS. LOE: Are there any questions for this speaker? I see none. Thank you, Mr. Crockett.

MR. CROCKETT: Thank you.

MS. LOE: Are there any other speakers on this case? Seeing none, we'll close public comment.

**PUBLIC HEARING CLOSED**

MS. LOE: Commissioner discussion? Mr. MacMann?

MR. MACMANN: I have a -- I have a quick question for the Chair. I'm asking you to help me with my memory. Whilst we were writing the UDC, and maybe some of the rest of guys remember this, we pondered a situation very similar to this as a scenario. How did we move forward; do you recall?

Ms. Burns has a --

MS. BURNS: I recall as far -- I think one of the cases that Mr. Crockett brought up on the -- was Salon Nefisa, on the corner of Tenth and Walnut. And I think because of the area -- you know, I hesitate to even get into this because we're talking about this case here.

MR. MACMANN: Correct.

MS. BURNS: And I think we have focus on the case at hand versus what we've done, and I would refer to our sidewalk discussions which come up frequently. And we continually try to do what's best by the UDC and apply that to new construction in cases that come before us. So I would be happy to share with -- after the meeting, but -- and it might not even be accurate. I'm not sure if it's relevant.

MR. MACMANN: I just was wondering. I thought we hit a sweet spot, because this - this very issue was brought up. What about redevelopment in these -- Mr. Farnen brought it up, I believe, and I'm just --

MS. BURNS: I think that was a different issue as far as amount of sidewalk and current curvature of that sidewalk at a corner.

MS. LOE: Mr. Crockett, I have a question for you.

MR. CROCKETT: Yes, ma'am.

MS. LOE: Is there a proposed development in -- that this is prompting this --

MR. CROCKETT: Yes. We have -- we have a proposed development that we are in the works of creating. It's been in the process for several years. The Backyard project was constructed here several years ago and now they're going through modifications and adding to that. And so because the new building permits would be needed for additional work, and now the UDC comes into play, that's what creating the need for the platted subdivision.

MS. LOE: What is the new project?

MR. CROCKETT: They are doing a building addition in that backside, yes.

MS. LOE: A new building addition.



MR. CROCKETT: Doing building additions. And so that's -- that's the issue with the utility easement is that we would be denied a permit. And our architect has been told that we would be denied a permit if it wasn't within 24 inches of the property line. Well, now we're being asked to grant a utility easement, so how does that work?

MS. LOE: Ms. Burns?

MS. BURNS: Mr. Crockett?

MR. CROCKETT: Yes, ma'am.

MS. BURNS: I don't know if you have the -- if you're able to put up the picture of the alley that showed the retaining wall and then -- yes.

MR. CROCKETT: Yes, ma'am.

MS. BURNS: Are there -- when I walked this property, there were the trash cans lining the alley.

MR. CROCKETT: Yes. Those have been removed. It's -- there is a trash -- a Solid-Waste concern. Solid Waste has voiced their concerns, and there is an outstanding concern with that. And they made it very clear to us -- Solid Waste has made it very clear to us that that has to be addressed to their liking before any building permit will be obtained for this site. And so when we come in with a new building permit for a new building, a new structure, any type of building construction, we have to address their -- Solid-Waste concerns for this property. And so lining this alley with dumpsters is not going to be an appropriate situation. They're looking for something else that's going to be located on our property or an arrangement with someone adjacent to our property, but something that's going to be to their liking, and putting them in this alleyway certainly will not be to their liking.

MS. BURNS: Okay. Yeah. Because given that it was a substandard alley currently --

MR. CROCKETT: Correct.

MS. BURNS: -- the trash cans even impacted that more.

MR. CROCKETT: Right. Solid Waste has become much more aware of the situation that's going on down here, and they're -- or they're holding our feet to the fire, if you will, for new building construction as that goes through. In years past, Solid Waste was kind of a -- you know, kind of -- they didn't review the plans, they didn't care, they let it go, and then they wondered why the problem wasn't being solved. Now they have the authority to solve the problem as the building permit process goes forward.

MS. BURNS: Thank you.

MR. ZENNER: Ms. Loe, if you will please open the public hearing up again.

MS. LOE: I understand, yes.

MR. ZENNER: Thank you.

PUBLIC HEARING REOPENED

MS. LOE: And this is Mr. Crockett, and his address is --

MR. CROCKETT: 1000 West Nifong.

MS. LOE: Thank you. Any additional questions for Mr. Crockett?

MR. MACMANN: Do we need to ask for additional speakers, since we reopened?

MS. LOE: Well, Mr. Crockett is at the podium right now. The public comment period is open again.

MR. MACMANN: Thank you.

MS. LOE: I see none. Thank you, Mr. Crockett. Did anyone else have any additional comments before I close the additional public comment period? I see none.

PUBLIC HEARING CLOSED

MS. LOE: Commissioners?

MS. RUSHING: Well, I'll make a comment to get started. I don't believe that the applicant has shown or what the applicant would need to show to grant the requested design adjustments, so I will be voting against them.

MS. LOE: Ms. Burns?

MS. BURNS: I just -- I have concerns about the substandard alley, the solid-waste issues, and the safety concerns for the corner truncation, so I don't plan to support this either.

MS. LOE: Mr. MacMann?

MR. MACMANN: I'm with my fellow Commissioners on the substandard alley and the truncations. And we have problems Alley A and other places because of solid waste and there's just not enough room. I -- at some point in the future, we may need to discuss easements downtown because I'm trying to get my head around how to make this work going forward. And that's not -- that's not a today thing, it just -- you know, I'm sitting here racking my brain, how do we make that go.

MR. STRODTMAN: Well, I'll -- I'll just throw a little curve. You know, I plan on supporting some of the design adjustments because I think we've got a situation here where there's an existing building that, you know, we're going to have to treat similar to -- we did the Jefferson Middle School, that we had to go around it. I don't see how we give, you know, an easement to the existing building in an area. The retaining wall on that side obviously is not going anywhere, so to get width from that side is not probably going to happen anytime soon, if ever. This alley dead-ends, you know. There's a parking garage on the western end, so the alley -- it doesn't dead-end in the sense of it, you know, but it hits the street, and you have to right or left. The alley does not continue

across. So, you know, the other direction, the alleys do go quite a ways east, and so, I don't know. I mean, this alley is usable, it's serviceable. It's not going to be an Alley A, but, you know, I don't think we expect all of the alleys to be an Alley A either. So I'm not going to say that I'm going to support all three of the adjustments, but I think we have to consider something.

MS. LOE: Mr. Stanton?

MR. STANTON: Yeah. I'm kind of straddling the fence on the issue because I guess I'm looking for win-win, and I can't see how either side is trying to make it happen. I mean, we've got some permanent structure issues and we've got a business that's trying to grow. I think something can be worked out, but I don't see it yet. Maybe I can -- maybe somebody can help me come up with a win-win. I like the idea of the development, but we have solid-waste issues and, you know. You got to make both sides happy, so I'm open for any help to get this through.

MR. STRODTMAN: I think the solid waste will be addressed. You know, I think -- you know, our speaker was correct that we've learned a lot since the student-housing boom, and solid waste has become a much bigger issue for us in downtown, so that's something that I do think that's it's on their radar and it has to be addressed and it will be addressed, and I think that's outside of our purview as long as we know it's being addressed by that department. That's just my own personal --

MS. LOE: Ms. Bacon, I have a question. So Mr. Strodtman brings up the issue that we seem to be applying the restrictions to an existing building in this case, and that's because the plat is being combined. And so the one plot is getting the addition, so we're looking at restrictions that would be applied to a new building, but then they're being carried over to the existing.

MS. BACON: Yes. The corner truncation and the additional right-of-way dedication would affect both an existing building and the newly built building.

MS. LOE: Because I think I agree that the restrictions should be applied to the new construction, but I agree it seems to be setting up a bit of a dichotomy with the -- I mean, I understand that they would apply for legal nonconformity --

MR. ZENNER: It's not the fact that you have a building -- an existing building in a nonimproved or non - a lot that does not have a permanent structure on it. It is the fact that you are actually combining the parcels through a subdivision action as a result of the UDC. We will not allow you to build over a property line under the UDC.

MS. LOE: Uh-huh.

MR. ZENNER: The permitting associated with all of the improvements on the back lot were done prior to the adoption of the UDC. So -- and there is a separate

arrangement relating to the ownership of this property that allowed for crossover and passage between the lots while the standards that previously existed permitted the construction over a property line. When the UDC was adopted, those provisions were removed, and now we're looking at an expansion and a new construction on a lot that is desired to be consolidated, and that is what's triggering this. The mere fact that the building exists and would be nonconformed is no different in -- that in other instances and where we have taken easements that are forward looking based upon the potential that a building is catastrophically destroyed, removed at the request or the desire of the owner, and we have the ability then to make the improvements to the public infrastructure that would have otherwise been required. Tiger Tots off of Paris Road is good example of a subdivision plat that was brought in, that we have an existing daycare center building that has an easement going through it and has a truncation at the corner of one of its streets that it is on the corner of, and that is all forward thinking. So to the extent that the applicant has asked for design adjustments, the design adjustments have to be viewed from the perspective of you have M-DT design requirements that, as Mr. Crockett has accurately pointed out, specify a required building line construction standard. That is in the M-DT standards, and we're -- we're straddling two different sets of provisions here, one that's subdivision and the parcel has to comply with the subdivision standards; therefore, you're getting these subdivision design adjustments. And you have to weigh, and from a staff perspective, I believe the -- the request before the Commission is to weigh those subdivision waivers against the design requirements of the M-DT district. And it is correct, a ten-foot utility easement is going to be regulatorily required to be occupied by eight feet of building under the M-DT. The scenario here is is, if I'm not correct in speaking, can -- and correct me on this. The utilities, as they exist today, exist within the public road right-of-way. Again, we're looking forward. But the Commission, in weighing, I think its decision on approving or denying a design adjustment, for example, for the utility easement, needs to take into consideration what is more important, the design aspects of the UDC and the M-DT standards of creating a continuous and a unified active street frontage, or securing a utility easement that may never be used in the future because all of the utilities currently are located under public right-of-way. As far as for road right-of-way and corner truncations, those are definitely driven by subdivision actions and they are considered essential as it relates to the functionality of this parcel with an enhanced development on it. And if it should go away, the downtown still is going to have an infrastructure need, and if we don't, as Ms. Bacon pointed out, acquire those or secure them for usage at some point in the future, we lose the opportunity to do so without having to probably either pay a premium to get them back or we just have to give

up possible expansion. Now I will say this much, we are unaware of any CIP capital projects to expand the alley. And for a practical perspective, the Commission may find the fact that there is an elevation change in the alley, there is a retaining wall to the north, that it is impractical to consider -- and a building sitting on the east end of this alley, that it will ever be widened. However, weigh that against the fact that we do have a need for trash collection and adequate space for the movement of our trash vehicles to pick up the waste that is generated from this site. That may warrant the necessity for an increased alley right-of-way in an area that is not occupied by a building, which would be no different than what we would require for any other newly developed site. So it's -- and it is not something that is regulated against in the M-DT. You have to plat a compliant lot to get the building permit, and if the building -- if the plat requires the rights-of-way, we have to determine is that right-of-way warranted based on those conditions of the proposed construction.

MS. LOE: Thank you, Mr. Zenner. Ms. Rushing?

MS. RUSHING: So to -- to clarify, if we require the truncation and the width, if we support those requirements and deny the application to have those changed, that will not affect the existing building. They won't have to do anything to the existing building as a result of that action?

MR. ZENNER: As Ms. Bacon pointed out within the staff report, it is -- because it would be encroachment in a dedicated area for future public use, a right-of-use permit process would need to be engaged -- they'd have to go through a right-of-use permit. We do not have any -- any -- any aspect at this point, so the -- the building would not be required to be torn down. There is no guarantee, however, that at some point in the future, that we may desire to utilize that easement area that this plat has dedicated and have to do one of two things. Either work with the property owner in order to modify the building in order to open up that easement area that we have been granted or relocate a project in order to avoid that to not disrupt the business operations of that owner. I think to the point that Mr. Strodtman was making, as we handled with Jeff Junior, the easement could potentially be granted or the right-of-way could potentially be granted in an area that is not impacted by maybe the physical building, such as what we did at Jeff Junior. Again, though, you have an elevation change in the alley and that is significant as it relates to widening of the alley and the potential improvements that that may entail. An easement, in my mind, if it doesn't encumber and doesn't encumber the building, that may be a possibility, as well. And again, if you deny those easements or those requests, Council and the applicant -- the applicant can make the appeal to Council and Council ultimately would have that final decision. I can't guarantee you that there won't

be a need for those easements at some point, but the right-of-use permit would grant the applicant the opportunity to occupy them in the interim period of time that the City needed them, and then, if we do need them, they could potentially be utilized.

MS. RUSHING: And my second question is, are you saying that the utility easement may not be needed?

MR. ZENNER: I would conclude to you that given what we have seen in the downtown in the past, that is correct. All of these utilities do lie within the public right-of-way today of Tenth -- or of Sixth, and that easement could be waived by the Planning and Zoning Commission. Our subdivision code does not afford the staff to make that decision administratively. It is very clear that all newly platted property must provide a ten-foot utility easement along all rights-of-way. So what the staff report has articulated is a clear presentation based upon what our obligations are per the Code. The Commission, given those unique conditions, however, of utilities already in the right-of-way, the UDC requiring and the M-DT to be within 24 inches of the property line, those may be factors that you consider as supporting the request of the applicant to waive it. We are not in a position to not apply our Code, and what Ms. Bacon's report has done has done just that. We have applied our Code as it is written. If we had the ability to use discretion to say that, well, this is just impractical, not needed, we would probably have done that. If we had looked at an opportunity to where we were saying, well, we could maybe negotiate like we did at Jeff Junior, we would do that, as well. There is no physical structure on the Sixth Street frontage at this point. Hence, the reason for the recommendation that there does not appear to be a hardship to us to provide it. Unfortunately, we overlooked the two-foot requirement to be within the property line as part of the -- as part of the M-DT standards, and we apologize for that omission. But, otherwise, there is no building there that impedes the ability to provide the ten-foot easement.

MS. LOE: Any additional questions, Ms. Rushing? No? I have a follow-up question for Ms. Bacon. On the right-of-way -- or for the alley width, it was commented that should the -- there's a sentence in the report, Should this design adjustment not be granted, and the additional right-of-way dedicated, the applicant will be required to extend the pavement width to the required 16 feet. Does that apply both at the lot and at the existing building where it is 15 feet now, I believe?

MS. BACON: Well, as I've been sitting here thinking about that, I think it might be a may. The pavement width section is 16 feet in the Code. It's pretty clear. But it might be that there would be a half-width of the substandard, which would be a half of a foot potentially, but it might also be a situation where that right-of-use permit could buy some

time on the pavement width extension. But, yes. If you -- if the right-of-way is required to be dedicated, that means that width -- in that same section, it deals with the pavement width. The pavement width is also substandard. So those two are coupled together and it would run in the same line with the net right-of-way.

MS. LOE: Right. But we have an existing building in a 15-foot alley and you're --

MR. ZENNER: Considered another way, I believe so.

MS. LOE: Yes.

MR. ZENNER: Where the building is not located --

MS. LOE: Yes.

MR. ZENNER: -- and the right-of-way is dedicated --

MS. LOE: Yes.

MR. ZENNER: -- Ms. Bacon was trying to get across is the pavement would need to be made. The pavement improvement would be made up to the building, which again --

MS. LOE: All right.

MR. ZENNER: -- you all have to make a decision as to the practicality associated with that.

MS. BACON: (Inaudible) -- pavement under --

MR. CROCKETT: But the building is on the property line.

MR. ZENNER: Well, I'm -- but I think to --

MS. BACON: We could open the public hearing again.

MR. ZENNER: But I think what we -- I think what we would end up with -- what you would end up with is the right-of-use permit would need --

MS. BACON: Yeah.

MR. ZENNER: -- you need to grant a right-of-use permit for the area of the building's encroachment in the right-of-way that was platted, but could not be improved due to the building's existence, and then the improved portion would be everything to the west of where the building is.

MR. CROCKETT: (Inaudible)

MS. LOE: Mr. Crockett, we're not in public comment period.

MR. ZENNER: So, I mean -- and so, again, part of what one has to look at is this balancing practical application against regulatory mandate. That's why you all are paid the big bucks.

MS. LOE: Mr. Toohey, and then Mr. MacMann.

MR. TOOHEY: So I've got a -- my question was for staff. So the University owns the building to the south of this. So let's say we didn't approve any of this and they came back and designed it to the specs of the UDO, and then the University bought this

building and decided to knock it all down, they could then go do whatever they wanted regardless of what we -- what the applicant would have changed to get this to be supported by staff. Correct?

MR. ZENNER: The University is exempt from our zoning requirements for University-owned property. We -- we just do not have a choice in that respect.

MR. TOOHEY: Okay. Just wanted to clarify.

MS. LOE: Mr. MacMann?

MR. MACMANN: I'd like to call the question, just so we can get through these points one at a time, unless you guys really do want to deeply discuss some of these other issues. I'd like to make a motion. In the matter of the design adjustments in Case 82-2019, beginning with number one, the substandard nonconforming width or potentially nonconforming width of the alleyway, moving in the positive, I move that we approve that design adjustment, though I will be voting the other way.

MR. TOOHEY: Second.

MS. LOE: Second by Mr. Toohey. We have a motion on the floor. Any discussion on this motion? I see none. Ms. Burns, may we have a roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms.**

**Rushing,**

**Mr. Toohey, Mr. Strodtman. Voting No: Ms. Burns, Ms. Carroll, Ms. Loe, Mr.**

**MacMann,**

**Mr. Stanton. Motion fails 3 to 5.**

MS. BURNS: Three to four, motion does not carry.

MR. ZENNER: Three to five.

MS. BURNS: Three to five.

MS. LOE: Mr. MacMann?

MR. MACMANN: I have a motion. In the matter of Case 82-2019, the corner truncations on this property, I move that we approve them.

MS. LOE: We have -- do we have a second?

MR. TOOHEY: I'll second.

MS. LOE: Mr. Toohey is the second. We have a motion on the floor. Any discussion? This is on the truncations.

MR. MACMANN: I -- I just want to make a comment before I go much further. I'm -- I appreciate Mr. Crockett's issues and I truly appreciate staff issues and the City issues. This is an unresolved issue and a solution gives Mr. Crockett's customers a piece of property that we could tear down at any time, and I'm not really comfortable with that. I -- to let you know. A right-of-use permit till we might need it in the future. So I'll be voting



no.

MS. LOE: Any additional comments? Mr. Stanton?

MR. STANTON: So the motion on the floor is to approve?

MR. MACMANN: It's a positive motion. I'm making all these as positive.

MS. RUSHING: To approve the requested design adjustment?

MR. MACMANN: Correct.

MS. RUSHING: And that was for the first one, also, to make sure that --

MS. LOE: This is for corner truncations only.

MR. MACMANN: This for corner -- we've addressed the substandard alley. This is to address the corner truncations. I move to approve those.

MS. RUSHING: The corner truncations?

MR. MACMANN: The corner truncations, because all motions need to be positive, the affirmative.

MS. RUSHING: I'm -- let me clarify. When you moved to approve the dedication of right-of-way, was that to approve the requested design adjustment or to approve the requirement that right-of-way be dedicated?

MR. MACMANN: To clarify, this was my intent. To go through the design adjustments one at a time, number one, the alleyway.

MS. RUSHING: Okay. But you're not answering my question.

MR. MACMANN: Okay. Perhaps I'm not understanding it.

MS. RUSHING: You moved to approve -- to approve the design adjustment, which, to me, was to approve the requirement that they dedicate right-of-way.

MR. MACMANN: In the alleyway, yes.

MS. RUSHING: In the alleyway.

MR. MACMANN: Yes.

MS. RUSHING: Okay. And so your motion now, is that to approve the requirement of corner truncations?

MR. MACMANN: The other way.

MR. ZENNER: Ms. Rushing, Mr. MacMann, if I may?

MR. MACMANN: Yes, sir.

MR. ZENNER: The design adjustments are to waive the requirements. So Mr. MacMann's motion in the affirmative was to approve the design adjustment to waive dedication.

MS. RUSHING: That's what I understood.

MR. ZENNER: So your vote of no was a vote to not support approval of the design adjustment. If you voted yes, you were supporting the design adjustment.

MS. RUSHING: Okay. And I voted --

MR. ZENNER: No.

MS. RUSHING: Yeah. Okay.

MS. BURNS: No. She voted --

MR. ZENNER: Or you voted yes, just to get this correct.

MS. RUSHING: So on this, it's the same thing. Okay.

MR. MACMANN: Ms. Rushing, you've completely confused me.

MS. LOE: We have a motion on the floor. The motion is to approve the corner -- the request to waive corner truncations. Any further discussion? I see none. Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr.**

**Strodtman.**

MS. RUSHING: We're approving --

MR. ZENNER: The request to waive.

MS. RUSHING: We're approving the requested design adjustment?

MR. ZENNER: Yes. The request to waive the truncation dedication.

MS. RUSHING: Then no.

**Roll Call (Continued) Voting Yes: Mr. Strodtman, Mr. Toohey. Voting No: Ms. Rushing,**

**Ms. Burns, Ms. Carroll, Ms. Loe, Mr. MacMann, Mr. Stanton. Motion fails 2-6.**

MS. BURNS: Six to two, motion is denied.

MR. ZENNER: Six.

MS. LOE: Thank you.

MR. MACMANN: Madam Chair, I have a motion.

MS. LOE: Yes, Mr. MacMann?

MR. MACMANN: In the matter of Case 82-2019, the dedication -- to approve the dedication of the easement on Sixth and Seventh, I move that do, moving in the affirmative. I move to approve the design adjustment for the expansion of the easements.

MS. LOE: Okay. This is the utility easement?

MR. MACMANN: Yes, ma'am. On Sixth and Seventh.

MS. LOE: Do we have a second?

MR. STRODTMAN: Yes.

MS. LOE: Mr. Strodtman is the second. We have a motion on the floor. This is for approval of the waiver request for the -- providing the ten-foot utility easement. Any discussion? Seeing none.

Ms. Burns, may we have a roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr.**

**Strodtman,**

**Ms. Rushing, Mr. Toohey, Ms. Loe. Voting NO: Ms. Burns, Ms. Carroll, Mr.**

**MacMann. Motion tied 4-4.**

MS. BURNS: Four to four, motion ties.

MR. ZENNER: Mr. Stanton.

MS. BURNS: Mr. Stanton. Sorry.

MR. STANTON: No.

MS. BURNS: I need a counter.

MR. ZENNER: That is a tied vote now, four-four. No recommendation being forwarded.

MS. BURNS: Thank you.

MR. MACMANN: Madam Chair, I have a motion.

MS. LOE: Mr. MacMann?

MR. MACMANN: In the matter of Case 82-2019, I move that we approve the final plat.

MR. STANTON: Second.

MS. LOE: Second by Mr. Stanton. Any discussion on the motion on the floor?

MR. MACMANN: Madam Chair, I will be voting no, as I -- as I said before, I don't want to give Mr. Crockett's customers pieces of property that we could take away from them. The right-of-use permit bothers me a lot.

MS. LOE: Mr. Zenner, point of order. Can we -- can we approve it if we've denied two of the motions?

MR. MACMANN: The -- the final plat would have to be complete redone if we approve it.

MS. RUSHING: No. And we can't approve it because --

(Multiple people talking simultaneously.)

MR. ZENNER: Yeah. So it's not --

MR. CALDERA: So right now, the plat that Mr. Crockett has submitted includes the design adjustments. You all have voted down two of the design adjustments. Therefore, his plat is not in conformance with what you all -- are basically stating.

MR. STANTON: So it's nonconforming.

MS. LOE: But can we actually approve it?

MR. MACMANN: May I clarify my motion? If I may, because of what we've done and what we are doing, Mr. Crockett's plat is moot. It's not correct. Nothing works. The

numbers are all off. It would have to be completely replatted. I'm moving to deny it because it's not functional, it's not practical, it's not doable.

MS. RUSHING: Second.

MS. LOE: We had a motion on the floor.

MS. RUSHING: He needs to withdraw it.

MR. MACMANN: I was just -- I was explaining it. That's all I was doing. But thank you for the support.

MR. ZENNER: A vote -- a vote of yes would be to support a noncompliant plat. A vote of no would be to deny the plat because of its noncompliance, because the motion was made in the affirmative.

MS. RUSHING: We're going with your first motion.

MS. LOE: We're going with the motion on the floor?

MR. ZENNER: Yes. That is the motion on the floor. And if the motion fails on the floor, to answer the question again as I stated earlier, the Commission has four potential options: Approval, approval with conditions, denial, and table. If this motion fails, you have the ability to make a motion to approve a plat with conditions. And if those conditions would be correction to address the design adjustments, or to create a compliant plat, that would be your motion.

MS. RUSHING: So we need to vote on this?

MR. ZENNER: But right now -- right now, your motion that is on the table is a motion to approve the plat without any conditions. A vote of yes would be to approve the plat, a vote of no would be to deny it.

MS. LOE: Thank you, Mr. Zenner. We can vote on it or we could amend the motion.

MR. MACMANN: I -- I -- if I may, before we do vote. I would just like to say let's vote on this plat as it is, and then if we want to discuss what else is going to go on, we do that.

MS. LOE: Okay. Any further discussion on this motion? Seeing none. Ms. Burns, may we have a roll call, please.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr.**

**Strodtman,**

**Mr. Toohey. Voting No: Ms. Rushing, Ms. Burns, Ms. Carroll, Ms. Loe, Mr.**

**MacMann, Mr. Stanton. Motion fails 2-6.**

MS. BURNS: Two to six, motion is denied.

MR. ZENNER: Denied.

MS. LOE: Recommendation for denial --

MR. ZENNER: The motion has been --

MS. LOE: The motion has been denied.

MR. ZENNER: Motion is denied. There was no tie. It didn't fail to get -- it got a second, it's been voted on. Motion was to deny. So a motion will be forwarded to Council for denial of the plat, denial of two of the design adjustments, and a no recommendation on the third.

MS. LOE: I believe this concludes Case 82-2019.

MR. ZENNER: We may need to take a break.

**Approve modification to waive alley dedication - Voing Yes 3, Voting No 5  
(motion fails)**

**Approve modification to waive corner truncations - Voting Yes: 2, Voting No 6  
(motion fails)**

**Approve modification to waive utility easement dedications - Voting Yes 4; Voting  
No 4 (no recommendation)**

**Approve final plat - Voting Yes 2, Voting No 6 (motion fails)**

## **VI. PUBLIC HEARINGS**

### **Case # 101-2019**

A request by Brush & Associates (agent) on behalf of James & Gina Harris (owners) seeking to rezone two parcels (containing 3 lots) from PD (Planned District) to A (Agriculture). The subject parcels are located on the south side of St. Charles Road approximately 700 feet east of Dorado Drive. Parcel 1 (2 lots) contains 1.29 acres, and Parcel 2 (1 lot) contains 0.61, for a total of 1.70 acres.

MS. LOE: May we have a staff report, please?

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of the requested rezoning from PD to A.

MS. LOE: Thank you, Mr. Palmer. Before we move on to staff questions, I'd like to ask any Commissioner who has had any ex parte prior to this meeting related to Case 101-2019 to please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. Seeing none. Are there any questions for staff? I see none. With that, we will move on to the public hearing portion for this case. Please give us your name and address, and we do limit you, I'm afraid, to six minutes if you're speaking for a group, and three minutes for an individual.

### **PUBLIC HEARING OPENED**

MR. SCHWEIKERT: It shouldn't be a problem. Kevin Schweikert, Brush & Associates, representing the owners, 506 Nichols Street, Columbia. I thought I had something to add, but I thought the staff report was completely thorough, so I'm just here to answer any questions you might have.

MS. LOE: Any questions for this speaker? I see none. Thank you.

MR. SCHWEIKERT: Okay. Thank you.

MS. LOE: Any additional speakers on this case? Seeing none.

**PUBLIC HEARING CLOSED**

MS. LOE: Commissioner discussion? Mr. Stanton?

MR. STANTON: I'd like to make a motion. I'd like to make a motion if my colleagues don't have anything else to say. As it relates to Case 101-2019, I move to approve the rezoning from PD to A.

MR. STRODTMAN: Second.

MS. LOE: Second, Mr. Strodman. We have a motion on the floor. Any discussion on this motion? I see none. Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr.**

**Strodman,**

**Ms. Rushing, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. MacMann, Mr.**

**Stanton. Motion carries 8-0.**

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council.

**As it relates to Case 101-2019, move to approve the rezoning from PD to A.**

**Yes:** 8 - Burns, Loe, Rushing, Stanton, Strodman, Toohey, MacMann and Carroll

**Excused:** 1 - Russell

**Case # 122-2019**

A request by Crockett Engineering (agent) on behalf of HJRJ Investments, LLC for a major amendment to the existing *Copperstone Commercial C-P Plan* to allow for a mixed-use development to include commercial, office and residential uses, to be known as the *Copperstone Lot 102A PD Plan*. The subject property is located on the west side of Frontgate Drive, approximately 300 feet south of Vawter School Road, and is commonly addressed as 4015 Frontgate Drive. **(This case was tabled at the May 23, 2019 Planning and Zoning Commission meeting).**

MS. LOE: May we have a staff report, please?

Staff report was given by Mr. Clint Smith of the Planning and Development Department. Staff recommends approval of the requested major amendment for the Copperstone Lot 102A PD Plan and the associated Statement of Intent, with the following conditions:

- Provision of an 80-percent opaque buffer and 8-foot screening device along the west side of Lot 102B.

- Provision of an 80-percent opaque buffer and 8-foot screen device along the south side of Lot 102C where it abuts R-1.

MS. LOE: Thank you, Mr. Smith. Before we move on to staff questions -- or Commissioner questions, I should say, I would like to ask any Commissioner who has had an ex parte prior to this meeting relating to Case 122-2019 to please disclose that now so all Commissioners have the same information to consider on behalf of this case in front of us. Ms. Rushing?

MS. RUSHING: Again, I was -- have not had any contact regarding this request, but I have had several people complain about Addison's, which is related -- to me, related to this request, so --

MS. LOE: Thank for that. Any additional comments? I see none. Are there any questions of Commissioners for staff? Mr. MacMann?

MR. MACMANN: Question for staff. Planner Smith, it looks to me like these houses front to the north-northeast; is that my -- is that a correct way to look at that?

MR. SMITH: I believe the intent there is the front would actually be to the south. The -- in speaking with the applicant when we were reviewing these, I think the intent there was to have almost a front yard that would open to the open space.

MR. MACMANN: So almost -- it could be the front yard and those are garages in the back or something; is that what those are?

MR. SMITH: That's correct, yes.

MR. MACMANN: All right. That was my other -- that's the other way I was going to flip it. Thank you.

MS. LOE: Any additional questions for staff?

MS. CARROLL: I have a general question for staff.

MS. LOE: Ms. Carroll.

MS. CARROLL: Yeah. I'm aware that the eight-foot landscaping screening device could be provided in this case. I'm wondering what the rationale would be for requiring that. If the homeowners and the neighbor -- neighboring residents don't want that, surely the requirement is intended to protect homeowners' interests?

MR. SMITH: No. That's a fair question. I think it's one we do get occasionally. It may seem, you know, out of step for us not to recommend something that all the residents seem to support, but I think we have been consistent in sometimes kind of bucking the residents', I think, intent or their desire, based on the fact that sometimes there are other factors that we look at that maybe they aren't looking at. So we're, I think, looking at more on a broad term from City-wide objectives. So in a case where maybe the next time this comes before the Council and there's not, you know, residents'

outcry for providing this minimum screening, it's -- it's helpful to have objectives to say this is what we based our recommendations on and it's not solely based on how the residents feel about it. So one of the objectives of planned developments is to ensure that when we have uses that are grouped together like this, you know, incompatible uses, or not necessarily incompatible, but different uses is that we're providing an adequate buffer between those, so any possible impacts on those are mitigated. And the Code is clear that the minimum amount that we consider necessary to mitigate those uses for other sites is the ten-foot, 80-percent opacity with the eight-foot screen. So barring a -- some sort of substantial evidence provided to us to say that that mitigation isn't necessary here, aside from just residents' concerns, I think it's -- it's our place here to look more on the long term, I think, compatibility of the site, not just the most recent owners of the site directly adjacent to the site. So we -- we look at it a little more holistically, I think.

MS. LOE: Any additional questions, Ms. Carroll?

MS. CARROLL: No.

MS. LOE: Ms. Rushing?

MS. RUSHING: I -- I have two questions. So are you indicating there is going to be a roadway or a driveway along the southern border of that property?

MR. SMITH: Not along the southern border. There is an eight-foot pedway that kind of wraps around the southern side of this property. The Copperstone residential subdivision has a fairly unique sidewalk system, if you've ever been out there, but they're not necessarily traditional sidewalks that are set right at the property line. So this one, if I can go back to the aerial, it's a little easier to see maybe. Yeah. So -- so this -- this is the continuation of this pedway that's going through this common lot, and this common lot is directly south of the site.

MS. RUSHING: Well, I understood you to say that the front of the residences was the south?

MR. SMITH: Right.

MS. RUSHING: And there's no road going --

MR. SMITH: To the front of the buildings would be to the south. The functional -- I don't know if that's the right word, but the entrance to the structures are going to be from the rear on the north side. That's where the garage will be.

MS. RUSHING: Okay. And is there -- is there a plan at some point in time to have a roadway entering from the north onto this larger piece of property?

MR. SMITH: Not that I'm aware of. I think the access to the single-family will be from here, but the -- there's also an access here on the far north side that would access



the commercial site, as well. So this is an access, if you can see on the screen, this is a driveway from Frontgate Lane.

MS. RUSHING: Well, I'm -- I'm looking at the whole piece of property going clear over to Scott Boulevard.

MR. SMITH: Oh, excuse me. That, I couldn't answer that question right now. This is a -- I think also a zoned planned development, if I'm correct, and I think -- I couldn't answer what access they'll have there. The grades are a little difficult, so that would have to be something we would look at at the time of submission of a PD plan or engineering.

MR. ZENNER: The extension of Frontgate Lane, Ms. Rushing, is intended -- is intended to extend westward through the commercially zoned tract that is bounded there on Scott and Vawter. There is a connection -- there were controlled access points for the Scott frontage. If I recall correctly, there are two on Scott, and then if I am not incorrect, it is potentially a right-in, right-out only on the Vawter frontage directly across from I believe the access to the Break Time gas station, which is what you can see just to the north about center of that western parcel.

MS. RUSHING: Well, my -- my concern is based on what I've -- you know, what I indicated I had heard, is that you're going to have a lot of traffic -- commercial traffic coming into a residential area. And so, you know, assuming we're going to have development here along Vawter School Road, you know, I was just wondering about the possibility of, at some point in time, a road coming in from the north to take commercial traffic off of this residential street. I'm also wondering if this development doesn't isolate that piece of R-1 property from development.

MR. ZENNER: Immediately to the south, ma'am?

MS. RUSHING: To the south.

MR. ZENNER: That's common land that's part of the Copperstone development.

MS. RUSHING: Okay.

MR. ZENNER: And to answer the question again, there would be a coordinated access point to the north through the undeveloped tract to the west that Frontgate Lane will connect to. That is a planned district project that once plans are submitted for the commercial development of that, we will be connecting road infrastructure in order to offset the impact right now that is felt on Frontgate Lane or Frontgate Drive. At the time that the Addison's was approved, your concerns that you're raising at this point were shared by residents as it related to the impact that Addison's would create, and it's a matter of development timing to relieve the traffic impacts that are there today when the western tract develops. So it will occur, we just don't know what the timing is at this point. And if we go back and we look at the staff report for the Addison's development,

there were very clear, affirmative statements that as this developments plans come in for the commercial tract west, we will be evaluating that to ensure that there is road connectivity either through a shared private access that's actually platted or through the creation of additional public streets.

MS. LOE: Any additional questions for staff? Mr. Smith, I had one questions. The landscape plan shows the property meeting the property edge buffering requirements at 29-4.4(e), and the report identifies these are lesser requirements than what would be required between a commercial and residential requirement. What level -- this is level 3. Which level are they meeting?

MR. SMITH: And the location is on the screen right now in the green areas.

MS. LOE: Yes.

MR. SMITH: So it's difficult to determine what standard they're meeting because they have provided -- they provided screening, but right now they're just asking to waive the 80 percent opacity. So they're not committing to any other levels of opacity. So whatever screen level this will apply or will provide will be the standard, but it's hard for us to say this is going to meet some standard because without -- without a minimum commitment from them, we can't enforce anything. Does that make sense?

MS. LOE: Right. No. I was just trying to understand what they -- they --

MR. SMITH: We can enforce this specific plant material.

MS. LOE: It implies they're meeting a standard, and I was just trying to differentiate between what staff was asking for and what they're providing. Thank you. Well, with that, we will move on to public comment. Same rules apply. Name and address and time periods.

#### **PUBLIC HEARING OPENED**

MR. CROCKETT: Thank you. Madam Chair, members of the Commission, Tim Crockett, Crockett Engineering, office at 1000 West Nifong. If you don't mind, Clint, flip me over, please. Before we start, I wanted to get -- just make one clarification. The residential units that we are proposing, we don't really want to have a front or a back necessarily. We want what we call a double front. We want them as aesthetically pleasing from both sides, both from the road view as you drive into the development, as well as on what we believe will be the recreational space sitting behind the building. We want them aesthetically pleasing from both sides. Again, I'm Tim Crockett. With me tonight is John Hall, who is the applicant. He is the owner of the property; he's also a resident of the Copperstone neighborhood. Just a quick overview, we are looking at 2.2 acres. It is zoned PD. It is located between a single-family residential neighborhood and a restaurant use, so we are trying to go for that transitional zoning. The tract was zoned

CP in 1998. At that time, no statement of intent was required, therefore, as you see tonight, you have a statement of intent included with this packet. In 1998, this Copperstone development had not taken place yet, so the zoning of this piece of property supersedes the development that has happened behind it. Again, this development provides transitional zoning between the existing single-family residential and the commercial use. While we are commercial, the intent is to develop this property more in an office and residential style. Mr. Hall has a couple of businesses that he intends to occupy one of the buildings, and in his due diligence, going to the neighbors, talking to them, he has spurred up other interest, so he has serious discussions taking place with other residents who have businesses that want to occupy some office space, as well. So we think that's very important. Again, you've seen the layout that we're talking about, and we are asking for a couple -- several design modifications. First of all, as to 29-4.6, which is regarding the doors facing the public street, and this is in this location right here. It's on the north side of our property on the easterly portion of the north building up against Frontgate Drive. And as Mr. Smith indicated, the purpose of that -- the reason for that is that we have significant fall, a significant grade that we drop off. So what we're trying to do is transition from the front of our building to the rear of our building which will sit above the street, and so we're trying to make that transition and it creates a very difficult, if -- very difficult and very costly and kind of unsightly to add additional retaining walls to make that access work. The second item that we're asking for is variance to Section 29-4.4 for the landscaping, more particularly the eight-foot screen device. Again, this -- in this location here, and if you look at the landscape plan, it is very detailed. Mr. Hall has worked closely with the HOA, been working closely with the residents to give them what they want for the landscaping. It's packed full of elms, you know, elms, oaks, maples. It's got boxwoods, it's got evergreens. It's a large landscaping buffer. It has a lot of landscaping in it. What it does not have is the eight-foot privacy fence or solid hedge. The neighbors don't require that in their own development and they certainly don't want it to be included here. They want it to be a transitionally zoning that goes from a -- you know, the restaurant use into their neighborhood. They don't want barriers, if you will. They don't want to have a solid line with a privacy fence. When they're not -- and when they're not allowed in their development, they don't want it allowed here. They want to kind of have that nice transition with a lot of landscaping. So we're not trying to skimp on the landscaping. We're not trying to get around landscaping or a natural buffer. We just don't want that privacy fence or privacy hedge, and that's what we're looking for. The other variance we're asking for is the 20-foot setback for the office or the commercial portion. It's not for the residential side. As Mr. Smith indicated, there has been some

misunderstanding or some questions about what that setback really is. Previous plats call it 15 feet. Zoning would say it's 25. So there's a lot of questions on how that got shown on previous plats at 15 feet. So I believe we've talked to staff and said, hey, well, we'll do 25 on the residential portion, which is in conjunction with the single-family side to the south, but let's do 20 feet here. And I think -- I think they actually suggested that, and we agreed with it, and so that's what we're going with. We're requesting the 20 feet and I think they're supportive of that. And then lastly, we're asking for dimensional standards for the single-family attached units. Single-family attached units are shown in blue. The single-family common area, if you will, is in green. And so if you really add all that together, each of those lots are in excess of 5,000 square feet. The minimum is, I believe, 3,500 for a single-family attached. So while the requirement is there, it's really used for different applications. In this case, it's more like a PUD, and when we look at the gross area. And so that's that issue. Mr. Hall, he's met personally with residents to discuss this project. He is setting the bar, if you will, on what it takes to meet with neighbors and get support for his projects. I've never seen a client do this much work to go talk to residents. He has personally gone door to door throughout the neighborhood and talked to many, many residents. He's conducting listening sessions, if you will. When I say listening sessions, it's not for the residents to listen to him, but necessarily for him to listen to them and get what they want and what they're -- what they're input is. And so he's modified the plan several times according to what he has heard from them. And then, of course, he has provided current and updated information consistently so that the HOA can put that on their website to keep their residents informed of what's taking place. He -- in support of that and because of that, he's got unanimous support from the Copperstone HOA board. He's got a signed petition, I say 31 neighboring properties, really it's what he has -- what he has signed, but he's got many more verbal -- verbal support from other residents that has given him support when he has not had the petition with him, and he's got, you know, many letters of support. Here's a quick little schematic showing in blue the subject site. In green are all the properties that have supported, given him support for this project. The yellow -- I just want to throw that out there. The yellow are properties that have not sold yet. They're still under builder or developer control, so I want to make sure that it kind of shows up that those aren't against the project. And again, in conclusion, the plan conforms with the original zoning. The requested variances are appropriate given the site characteristics, the neighborhood desire, and site layout. It has support from the neighbors and the HOA board, and I'm happy to answer any questions that you may have.

MS. LOE: Thank you, Mr. Crockett.

MR. CROCKETT: Thank you.

MS. LOE: Mr. Toohey?

MR. TOOHEY: I guess the only concern I have with the landscape buffering is the buffering that would go north and south would protect those future residents.

MR. CROCKETT: Mr. Toohey, if you look at that, if you look at -- you know, you can look at the schematic, but if you look at what we're planting there, we're planting evergreens. It's a fairly solid run of evergreens that are about roughly six to eight foot tall. Now because it doesn't have that solid -- solid privacy fence in there, it doesn't mean that we don't have a substantial amount of screening. Like I say, it's six to eight-foot-tall, it's got a lot of evergreens, it's got, you know, a lot of year-around coverage through there, so it's pretty heavily -- heavily landscaped.

MS. LOE: Mr. Crockett, just to intercede.

MR. CROCKETT: Yes, ma'am.

MS. LOE: I mean, the privacy screening may be landscaping. It doesn't need to be a fence. It sounds like you're saying you're providing that, but --

MR. CROCKETT: Well, there's other -- there's other aspects to the -- to that particular section also. It has to have certainly four different varieties. There's several different things in there. And so really what we're trying to do is we're trying to achieve the screen that's necessary, but not with the solid hedge or the solid privacy fence. And so while it may very well comply, it doesn't necessarily comply with the intent of the regulation. The City arborist would not say that this would comply, even though it's six to eight foot tall. It's -- you know, it's evergreens. I mean, I believe that that section running north and south would have 80-percent opacity, but because it doesn't qualify as the device, I think that's the reason why we have to ask that, as well as the four varieties and everything.

MS. LOE: Ms. Burns, then Mr. MacMann.

MS. BURNS: I just had -- Mr. Crockett, do you know how many homes are current in the Copper Ridge Subdivision?

MR. CROCKETT: I do not know. I believe -- I believe there are some folks here that might be able to answer that.

MS. BURNS: Okay. Thank you.

MS. LOE: Mr. MacMann?

MR. MACMANN: Thank you. Mr. Crockett, I want to commend you on the innovative residential. I actually really like that. I have the same concern that Mr. Toohey -- well, the -- the buffer between the residential and the parking lot. These are single-family homes, kids, cars. That's my -- convince me. I mean, I might -- after this

development and Mr. Hall. I don't know which gentleman you are. I mean, it's wonderful. This concerns me because we have to hear -- the Copperstone people are great. They're fantastic. None of us know these people yet. We have to look out for their interests going forward because they're not present, they don't exist yet, the future residents here. How are we going to protect a child from running into that parking lot?

MR. CROCKETT: Well, first of all, Mr. MacMann, I appreciate the compliment, however, the layout was designed by my client, so he deserves the credit for that.

MR. MACMANN: And he did great.

MR. CROCKETT: With regards to -- with regards to the screen, I mean, if you look at the screen that we have there, Mr. MacMann, it is still a high, high level of landscaping. You know, what we don't want -- what we want to create is an open atmosphere. We don't want to create a situation where we have a fence that completely cuts one side off from the other. There are going to be potentially children there. Now my client, in circulating this, he has two potential clients that are interested in those single-family attached. Both of them happen to be couples that are in their retirement ages, you know. So they want to, you know, have the openness. They don't want to be contained in with a fence and with hard landscaping. The landscaping that's going in between the R-1 to the south and the parking lot, that is still a substantial amount of landscaping with a good number of trees, a good number of smaller line shrubs, but you can still see over it, you still see what's on the other side. It's a -- I'd say it's a safety issue. You can see what's on the other side. And so you know what's going on over there, but not to the effect that it affects your quality of life. You're not going to see headlights and you're not going to see, you know, a lot amount of noise.

MR. MACMANN: That's -- my biggest concern would be the headlights --

MR. CROCKETT: Right.

MR. MACMANN: -- future people living to the south and --

MR. CROCKETT: It sits at a lower elevation, as well, so it's not -- it's going to be cut off from a lot of the headlights that are coming through as well, just by natural grade, and then you also have some types of other landscaping, too, of varying types.

MR. MACMANN: All right. I'm, like, 80 percent there. I'll let you know.

MS. LOE: Mr. Strodtman?

MR. STRODTMAN: Mr. Crockett, for clarification, there are no fences anywhere in Copperstone. Correct?

MR. CROCKETT: That is correct. And I believe the HOA is here and they speak on that, but I don't want to speak out incorrectly. But I believe the only fences that are allowed in Copperstone would be, like, a four-foot tall picket fence, something that's open,

something that's not a, you know, privacy-type fence, so it's very short, very open.

MR. STRODTMAN: All right. More to keep a dog in, but not to keep --

MR. CROCKETT: Correct. But not -- not -- so they -- you know, they don't want privacy necessarily. They want to see, you know --

MR. STRODTMAN: All the way across.

MR. CROCKETT: -- all across.

MR. STRODTMAN: The intent of the residentials, would they have front porches and a traditional look on the south without the front door? I mean --

MR. CROCKETT: Yes. Yes. Yes. Exactly. It's -- the desire there is to make them -- well, I say double front -- is to have them aesthetically pleasing on both sides. So while you have a garage on one side, that's not necessarily the unattractive side where you come into the back. Or, likewise, you don't just have just a patio on the backside. It's going to be very attractive on the backside, as well.

MR. STRODTMAN: Will the residents have access off of the south side? I mean, can I get off my porch and go to that common -- that common area, or do you know that yet?

MR. CROCKETT: Well, the pedway that runs through there, I believe is a -- is a public sidewalk. Now I actually have an access, I think -- I'm not sure if my client has discussed with the HOA if those residents would have access to the common area, but they certainly would have access through the common sidewalk, because that's a public element.

MR. STRODTMAN: You're not planning any sidewalks to that, though, are you?

MR. CROCKETT: Oh, yes, sir. The sidewalk that you see, the eight-foot pedway that circles behind the residential units ties into the existing --

MR. STRODTMAN: Right. I mean from the residentials along the south side. There's not going to be another additional sidewalk that would tie into that -- in that -- they're going to walk through their yards to get to --

MR. CROCKETT: Okay. Yeah. Walk through their yard. You know, we don't want to take up additional green space.

MR. STRODTMAN: Right. I was just making sure of that. To me, that's where the people are going to be spending their time --

MR. CROCKETT: Right.

MR. STRODTMAN: -- is on that side of the house, so that would help maybe with the children and the lights and kind of get away from the parking lot a little bit is -- the intent is probably on that side looking at --

MR. CROCKETT: And our intent, too, is try to hit that retirement crowd, too.

MR. STRODTMAN: Thank you.

MS. LOE: Any additional questions for this speaker? And I see none. Thank you, Mr. Crockett.

MR. CROCKETT: Okay. Thank you.

MR. WORSTELL: Hi. My name is Tim Worstell. I'm the president of the HOA in Copperstone, so I might be able to answer a few of your guys' questions that you raised. We're in full support of John Hall's proposed --

MR. ZENNER: Your address, Mr. Worstell?

MR. WORSTELL: Excuse me?

MR. ZENNER: Your address, please?

MR. WORSTELL: Oh, I'm sorry. 4001 Granite Springs Court. Sorry about that. Thank you. So Copperstone is -- it's a unique neighborhood. It's very family friendly. We all have kids running around. We've got an amazing state-of-the-art clubhouse. The pedways are unique eight-foot-wide pedways. People walk all over through the neighborhood. As far as the HOA covenants, and we don't have fences. We -- everything that we have is basically a six-foot-high metal fence. We don't do picket fences. We don't do any barrier-type fences, so everybody is part of the family, if you will, once you move in the neighborhood. So we totally support just doing the landscaping the way that it's called for here. It backs up to green space. It will block all car lights and the things that are -- the issues for you guys. But our biggest thing is we just don't want fences. I mean, we don't want a big barrier. We don't want -- I mean, we want landscaping, and that's how -- if you walk down the pedways, that's what we have. We have big trees, evergreens and things that make it feel private and feel exclusive. So it fits perfectly into Copperstone from our opinion. So I don't know if you guys have any questions. I'm happy to answer those.

MS. LOE: Mr. MacMann?

MR. MACMANN: Just one quick question. We all spent a great deal of time when Addison's went in hearing about parking and traffic.

MR. WORSTELL: Right.

MR. MACMANN: This is going to increase that footprint pretty well.

MR. WORSTELL: Yeah. We haven't had any problems, to be honest with you, from Addison's.

MR. MACMANN: From Addison's. You're good?

MR. WORSTELL: Yeah. I mean, it's been remarkable, to be honest. I mean, going through the neighborhood --

MR. MACMANN: I mean, there was just a very serious level of concern and I just --



you guys were --

MR. WORSTELL: Yeah. Well, I understand. That was all of our conservative --

MR. MACMANN: You guys are cool with the potential add-on of traffic. Right?

MR. WORSTELL: We are. Yeah.

MR. MACMANN: Okay.

MR. WORSTELL: I mean, and what John is proposing is his own businesses and then he's got a couple of other local businesses or people within the neighborhood that want to occupy that commercial space, and then the residential is, you know, it is what it is. It's --

MR. MACMANN: All right. Thank you. We're apparently talking over each other and the --

MR. WORSTELL: Sorry.

MR. MACMANN: -- and our recorder had difficulty getting that. So are you caught up; you're good? All right. I apologize. Thank you, sir. I don't have any more questions for you.

MR. WORSTELL: Yeah. Any other questions or anything I could answer?

MS. LOE: Any additional questions for this speaker? Mr. Strodtman?

MR. STRODTMAN: Yes. Do you know if these residents would have access to the lot to the south, the --

MR. WORSTELL: The pedway? Yeah. So --

MR. STRODTMAN: The pedway, as well as just the common?

MR. WORSTELL: The pedway and then the common ground, it's all a big green space. We have, I think, 40 -- 22 to 40 acres worth of green space that we mow, and so it's all taken care of. And, yeah. The people coming out of the back, you know, there might be -- there will be some trees back there, I imagine. It's not probably listed there, but John would be able to speak more to that, but, yeah. They'll be able to go into that green space, and the kids will be able to play. There's plenty of places for them to play.

MR. STRODTMAN: Will they be part of your homeowners' association?

MR. WORSTELL: Currently, they -- they aren't. We're open to the idea that they could. I mean, if it makes sense. I mean, it doesn't -- we're not saying no. We're saying we haven't had the discussion. We just want to get this approved because we believe in what John is doing, being a resident of the neighborhood, and we could have a whole lot worse situations where we don't have somebody that's in the neighborhood that cares about what's happening. So we're in complete support of this.

MR. STRODTMAN: Thanks.

MS. LOE: Any additional questions? I see none. Thank you.

MR. WORSTELL: Yeah.

MR. FICHTER: Phil Fichter, 4013 Blue Hollow Drive, Copperstone. We actually own a home that overlooks this. Just to clarify for Ms. Rushing, we have no problem. We actually look at Addison's out our backyard. We think it's a great idea and we're glad it's there. We support John's plan here and along with the landscaping, we want to keep that all soft. So everything has been said before by Tim. We don't want a fence. We don't want a bush. We want to keep it open and consistent with what we have in Copperstone, so that's my comments.

MS. LOE: Thank you. Any questions for this speaker? I see none. Thank you.

MR. BALDWIN: I'm Darren Baldwin; I live at 4109 Frontgate Drive. My house is actually on that -- the side, the same side of the street on Frontgate just two houses down, so I'm very much affected by this. I like John, he's a nice guy, but not enough to devalue my house or look at something I don't want to look at. So I've been very honest with him, but I will echo the statements that Tim came up here. I can't think of his name, but the same thing he said. We don't want to look at a fence. I can see that from my backyard. John has plans for a lot of landscaping that is going to go on that I think is more than sufficient to accommodate the neighborhood. I know you guys asked, you know, questions about Addison's. I was here as -- as somewhat on the fence on Addison's in the first place, mainly due to the traffic. I have three small kids. And other than, you know, like the first three weeks, Addison's has not been an issue. If anything, the additional, you know, when Addison's is an issue, it's in the evening, so I -- a lot of the people aren't going to be in John's offices at that point. It will more than alleviate the traffic more than it will -- will cause it. So that's kind of our thoughts on that. But just echoing the support that I think that this is really good and one of the best things that could go in to help transition from, you know, Addison's, you know, being a full-on restaurant to kind of, you know, transitioning into the residences. I think it'll blend really nice, so -- if you have any questions, I'll be glad to answer.

MS. LOE: Any questions for this speaker? Mr. Baldwin, I have a question. So the requirement for a privacy barrier does not dictate that it's a fence?

MR. BALDWIN: Sure. Sure.

MS. LOE: It could be landscaping. I mean, what staff are saying is -- or asking for is a commitment that there be 80-percent opacity up to eight feet. The trees that have been described are tall trees, so they may not provide that opacity at that lower level, meaning you will see the cars and you may see the headlights.

MR. BALDWIN: Sure.

MS. LOE: You're comfortable with not having smaller --

MR. BALDWIN: I think with the amount, I mean, and looking, going back to Addison's. Like, I was very, very concerned about Addison's. I mean, I can hear noise from Addison's if someone is in the parking lot yelling. And other than, again, like the first two weeks when everybody wanted to be there, I have not heard a peep out of them, and I was -- I was a very vocal, you know, somewhat of a critic at the beginning before I finally got on board with that being a really good thing for our neighborhood. So I do not see -- I think -- I think with that amount of landscaping, I just don't see that being an issue. I don't see any -- there's no barrier right there at all, and I don't have an issue with headlights. Obviously, this is going to be a little bit closer, but it's not a concern of mine.

MS. LOE: Thank you. Any additional questions? I see none. Thank you.

MR. BALDWIN: Thank you.

MR. RODRIGUEZ: My name is Jose Rodriguez; I live at 4301 Granite Springs. I'm a resident of the Copperstone. And I just want to say that I'm 100-percent on board of this project, that I think this is, like, the best situation for the neighborhood to have a -- a neighbor planning this project for us. I mean, he was -- John Hall he was graceful to host all of us to kind of hearings to make sure that we were heard, and pretty much most of the neighbors I know, they're on board of having a neighbor building something for all of us to -- they know what we want and we don't want. And I've heard about all of the people talking about that, these privacy fences, I'm a big opposer of privacy fences. I usually like open spaces, so, I mean, I just want to make sure that this project is approved, and do you have any questions?

MS. LOE: Any questions for this speaker? I see none. Thank you.

MR. RODRIGUEZ: Yeah.

MS. LOE: Any additional speakers? If you have anything new to add to the conversation, that would be welcome.

MR. BRAND: Hello. Matt Brand, 3906 Creekfront Way. I'm at the subdivision that's just north of Copperstone. I just wanted to make sure that it was known that John will spend the time to also go north of Copperstone. I know there's been Copperstone residents here mostly, but, for the most part, those houses north of this street that are closer than many of the houses that are in Copperstone, as well. So he went through there and spoke with us. We were invited across the street. That was not something that the folks from Addison's did, so we're very welcoming to that. And we do share that intersection right there and have not experienced anything in terms of that crossway. I walk across it all the time to attend Addison's, even though they didn't talk to us. But I do experience a lot of fence issues in my subdivision. It has affected property value, particularly fences that are just horrendous. You're welcome to drive through there and

look at them. So the concept of larger fences, close, especially since I can see both of these properties from my backyard, I don't like that just from a monetary perspective, so that's all I have to say. If anyone has any questions?

MS. LOE: Any questions for this speaker? I see none. Thank you.

MR. BRAND: Thank you.

MS. LOE: If there are any additional speakers, if you can move forward so we can keep things moving, that will be great.

MR. HALL: I'll try and wrap things up, guys. My name is John Hall; I live at 4307 Granite Springs Drive. Tonight is my ten-year anniversary, so I'm spending it with you guys, so vote in favor of me being a butthead husband, but also vote in favor of this project. So I did want to -- like, this is something where I -- I've been here for eight years. I have three kids. My family is there, my wife is there, but in the villa that we're talking about right there, my parents are going in there. And so I am extremely motivated to make sure that this looks nice. And so when we're talking about the landscaping here, like, honestly, like, I'm meeting with the neighbors and I'm looking at this, and I want this to be great. I want trees. I'm actually a sustainable person, like, okay, put a fence there with wood or actually put living trees there and have it naturally go into the neighborhood. If I need to plant more, if we're not at a certain -- like, if Darren comes to me and is, like, there's a hole here, I'm going to plant a frigging tree. I would -- I want trees there, but, like, you've got to understand, from my standpoint, I came in and I'm listening to everybody. I sat there and talked to Pat Zenner for a couple of hours listening to him. I changed the plan and not like -- you're, like, oh, well. But I changed the plan because of his suggestions. I sat there and I said, Pat, I value this. I changed it. It took 2,000 square feet of commercial or office space away. No developer does that. That is the dumbest thing in the world to do, but I did it because I truly care about this community. I plan to live there the rest of life. I'm going -- one of those villas is for me after my parents go. And so I am extremely motivated to make this an amazing property for my family. My kids will be playing right in this area that we're talking about here -- right there. And so I am very motivated to make this safe for children. Trust me. I have three beautiful kids. I've got a three-month-old that just was born, and I am extremely motivated. So if you have any questions, I'm happy to clarify, answer questions, and let's just keep them brief because my wife is really upset.

MS. LOE: Any questions from Mr. Hall? Mr. Hall, I have one question. I appreciate all the verbal support, but one thing staff has brought up is setting a precedent here. Do you have written support for the proposed landscaping?

MR. HALL: Yeah. Yeah. If you look, the HOA actually -- half who couldn't be here,

my parents who are going to be the tenants, so when we're looking at future tenants, my parents actually wanted to be here. They flew, they came in, traveled five hours to be at the last meeting and it got postponed. And so they were here to talk -- they were here to talk, to be in front of you guys. Hap, who is an HOA board member, wrote and written and said, hey, I've reviewed -- I actually sat down with the first plan, the landscaping plan, and I went over this with them.

MS. LOE: Was any of that written support submitted?

MR. ZENNER: It was forwarded. It was forwarded to you by separate e-mail.

MS. LOE: Okay. All right. Thank you.

MR. HALL: And so, I actually changed the plan, because initially -- like, this is my 34th iteration of this plan. I've spent 6,127 -- 28, around there, minutes right now on this project, and so it's a lot. And so when you think about what I've done with landscape, it's -- at first, I did my own. Then I realized I wasn't that cool. I had hired Ross to come in, who is not a cheap landscaper. They are very good at landscaping. And so I went through one iteration. I sent it to Darren, I sent it to Hap, I sent it to people who are directly affected by this. My house is only a block away from this, too, so I am as well. We went through one iteration. Then we went through another iteration. The landscaping plan is third iteration where I've added trees. And so, like -- and I'm not a put -- like, I'm actually looking at, like, okay, what can I do. So is there written support? Hap -- H -- and works with the HOA board who reviews things like that. He was -- he sent in a report, and I'm aware of other people sending in written, as well.

MS. LOE: Great.

MR. HALL: Sorry if I got riled up there.

MS. LOE: That's fine. It's your anniversary. I understand -- exciting. Any additional questions. I see none. Thank you.

MR. HALL: Thanks a lot. I appreciate your time.

MS. LOE: Any additional speakers on this case? Seeing none, I'm going to close public hearing.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Move on to Commissioner comments. Mr. MacMann?

MR. MACMANN: I have a question for staff. Planner Smith, given what we've just heard, can we somehow meld precedent and make this work?

MR. SMITH: Can you clarify that? Well, I'm sorry. What are you asking?

MR. MACMANN: Okay.

MR. SMITH: Are you asking if I'm going to change my recommendation?

MR. MACMANN: No, I'm not -- not -- no. I'm not asking -- you've given your

commission and that's totally fine. You were concerned. You wanted some clarity to write up in this plan. Can you write this -- if -- if we -- if we were to grant what Mr. Hall and Mr. Crockett have requested, can -- do you have enough clarity? Is there enough clarity for you to write this up so it's enforceable? Is that -- that's where I'm going. Are you with me?

MR. SMITH: Maybe. I think right now the way their request is structured, they're asking for no minimum requirements except for what physically is shown on the plan, so it could be 80. I mean, it could be 80, it could be ten. I don't know. So there's nothing for us to hang our hat in and say this is the minimum amount of opacity we're getting there. If they could commit to a minimum number, I think that's something then that is an objective measure that staff could enforce. So --

MS. LOE: Mr. Smith, it describes it as level 3 buffering.

MR. SMITH: Uh-huh.

MS. LOE: Our level 3 buffering does not establish any minimum standard?

MR. SMITH: No. So -- and excuse me. I was -- I was stating what the request is tonight from the applicant, and that is to not provide level 3?

MS. LOE: You're asking not to provide what's shown in the landscaping plans?

MR. SMITH: Yes. They are waiving the -- the requirement for the 80-percent opacity and the screening device. That's not to say they're not providing landscaping, but they are asking to waive any type of minimum standard beyond what's physically shown on the plan.

MS. RUSHING: But they're showing trees --

MS. LOE: Correct. But they're showing themselves as meeting level 3.

MR. SMITH: There is no indication I have seen that commits them to a level 3 buffer there.

MS. LOE: Except for the screening. We're not going to open up public discussion again, so I'm just going to --

MR. SMITH: Do you -- well, maybe I -- I could be mistaken. Is there something on the plan that you've seen that indicates they're -- they're are committing to the level 3 requirements because they specifically --

MS. LOE: Yes. Yes. On the landscaping plan under landscape compliance, Item B, which describes the landscaping along the south. As you can see, all those little Bs, at the south end, not necessarily along the west of the townhouses, it's described as 29-4.4(e), property edge buffering, level 3. Trees required, nine; trees provided, nine. Minimum area of shrubs and flowering provided how many square feet. I agree it doesn't have opacity levels and screening, but it is describing a certain amount of landscaping.

MR. SMITH: So -- so my understanding of what the applicant has requested and from my conversations with Mr. Crockett was that they didn't want to be held to the 80-percent opacity screening, so that's how I've interpreted their specific modification requests that's on the plan listed as number B or letter B. And letter C, in addition, modification to the required 80-percent opacity, so it doesn't say a reduction in the 80-percent opacity, it says a modification. And, to me, that means it removes that requirement because there is no other requirement stated in that section. Well, even if it's shown on the landscape plan, they're specifically asking for that modification, so it -- it would, in my mind, would trump whatever they're showing on there as providing. So if they're -- if they're indicating they are providing that minimum, there is no need for the design modification then. So maybe we open up the public hearing again to get clarity from the applicant.

MS. LOE: I think we need to open up public hearing and have clarification of what's being shown and what's being requested.

#### **PUBLIC HEARING REOPENED**

MR. CROCKETT: First, for a point of clarification, when --

MS. LOE: First, Mr. Crockett --

MR. CROCKETT: Tim Crockett, Crockett Engineering, 100 West Nifong. When Mr. Hall said he was going to talk with Pat for a couple hours, he, on the phone with me, and he said I'll be right back, 15 minutes, and it was two and half hours, so that's how that goes, Pat. Sorry. What we're asking for is in the level 3 screening, you have to provide the screening device, which is typically the fence. But then you also have to provide a certain number of trees and shrubbery and everything else that goes along with it, so it's not one or the other. It is landscaping and the screening device. Okay? Now then, you can amp up your screen -- your landscaping to provide that -- that device. Okay? So it's not one or the other. So we can't go in here and remove all of -- all of the landscaping and then put a fence in. We still have to have the landscaping. That's the element that we're providing and, actually, it exceeds that, I believe. It's additional trees. By giving the variance tonight, by granting the variance tonight does not relieve us of the obligation to plant what is on the landscape plan on the PD plan. We are obligated to that plan, even with the variance that we get. The variance is so that we don't have to do the screening, but it does not obligate us -- or does not give us the freedom to ignore what we are presenting to you tonight with regards to the landscape plan. We are held to that plan.

MS. LOE: Mr. Smith?

MR. SMITH: May I clarify. So there are -- there are two requirements, to be clear. So part of the level 3 requirement is to do a ten-foot-wide landscape buffer, and that

landscape buffer must be 80-percent opaque and include a variety of landscaping. The screen does not require landscaping. If you put in --

MR. CROCKETT: Are you sure, Clint? Because it's --

MR. SMITH: I'm --

MR. CROCKETT: It's always required landscaping before --

MR. SMITH: I could --

MR. CROCKETT: -- on one side or the other.

MR. SMITH: The section -- I'm looking at it right now. The screen shall be constructed of wood, masonry, brick, stone, wrought iron, compact evergreen hedge, an earthen berm, or some combination of those materials.

MR. CROCKETT: Right.

MR. SMITH: So it does not specify that it must be a certain number.

MR. CROCKETT: I'm not sure where it's in the Code --

MR. SMITH: So it could literally just be a --

MR. CROCKETT: -- but in the regulation at some point --

MR. SMITH: -- (Inaudible) -- or a wrought iron fence. Excuse me.

MR. CROCKETT: It's somewhere in the Code we do have to landscape on the backside of the fence, because we cannot put a privacy fence on a property line and put that onto a neighbor, so landscaping is a requirement even with a fence.

MR. SMITH: I'm going to disagree with you on that. In this instance, it says screen in the screen section only requires a screen, such as a fence.

MR. CROCKETT: It's -- it's -- okay. We can look at that later, but there is a requirement there. But the idea here is --

MR. SMITH: So where do you -- do you -- is the --

MR. CROCKETT: The idea here is is we will provide the landscaping, but the issue is the opacity from an eight-foot-tall level. Eighty percent, eight foot, solid all the way across, and that's the concern that we don't want. We still want an amped up landscape plan. We still want a lot of greenery; we want a lot of trees and shrubs. Yes, we do have a lot of trees in there, but if you also look at the plan, we also have a low of low-lying shrubbery underneath it, as well. Can we get to that eight foot at 80 percent? That's what we want relief from. That's the only thing that we want relief from.

MR. SMITH: It's 80 percent opacity from one to five feet, just to clarify that, too. So all right.

MR. CROCKETT: On -- are you sure? Because the --

MR. SMITH: Again, the Section 2 of the landscape --

MR. CROCKETT: Because it is an eight-foot-tall -- it is an eight-foot-tall fence.



Correct?

MR. SMITH: It shall be designed -- a fence. Now, we're not talking about the screen, we're talking about the buffer again. Right? And the buffer is where the 80 percent opacity comes in. So the landscape buffer, it says at least 80 percent opacity when viewed in the space between one foot and five feet above ground at the time of installation.

MR. ZENNER: Mr. Crockett, let me add to this. The location you're referring to that it is at the property line is the exact same location that Mr. Smith is referring to as it relates to the screen, location, and design. Item, it is 29-4.4(e)(3)(i) and it reads specifically, The screen shall be located along the property line of the applicant's lot and shall not extend into an established setback of an adjoining lot. Item 2 of that same section then is the screen standard, which can be a combination of wood, masonry, brick, stone, wrought iron, the compact evergreen hedge, and earthen berm. And then the third provision within that particular section is that the combination of height to get to the eight-foot screen, the landscape material, a combination height of the screening methods identified in this section shall not be less than six feet. And since level 3 requires an eight-foot screen device, you could do a two-foot berm and then six feet of additional landscaping in order to meet the screening device standard in addition, I believe, to what Mr. Smith is saying the landscape buffer requires. So it's almost a -- if you choose to opt out of the landscape -- of the -- of a screen, of a permanent screen of some nature, and the landscaping is capable of providing that screen, plus meeting the 80-percent of the first section of the buffer, I think that's what we're trying to drive at. Does the landscaping that's provided on the site afford that area --

MR. CROCKETT: But you're asking me these questions. This is the plan we've submitted, and your arborist has told us we need to have these variances.

MR. ZENNER: And I'm asking is the plan, though, is there -- I'm not sure that --

MR. CROCKETT: I would say that we meet that requirement, especially on the north-south portion, but the City's arborist is the one that's saying that we don't. We're the one providing six to eight-foot-tall greenery. It may not be ten foot in width, but it's a screen, but the City arborist is the one who is advising us and saying that doesn't conform to their own standard. And so that's the issue that we're at. So we've argued that it potentially does and you're saying it doesn't. So you're asking me these questions and I think that the City arborist would be the one that needs to be asked because he's the one saying that we don't conform to that.

MS. LOE: Mr. MacMann?

MR. MACMANN: I think I can narrow some of this down. I get the feeling you all

don't want a fence.

MR. ZENNER: That's what I'm hearing, as well.

MR. MACMANN: So, say -- just say, the sake of argument going forward, so just get the greenery, we were to waive the fence.

MR. CROCKETT: If you waive the fence and approve the landscape plan, we would be ecstatic.

MR. MACMANN: Okay. But let's for the sake of discussion moving forward, say we voted to waive the fence. Mr. Smith, you need something you can define in this plan, that you can enforce; is that what you're saying?

MR. SMITH: We can enforce what's there now. It's a --

MR. MACMANN: What's in the PD plan?

MR. SMITH: -- (inaudible) -- presentation of plants. It is not a percentage of opacity similar to what the Code has now. So we can enforce this, but it's hard to visualize exactly what that will be on the end.

MR. MACMANN: But you can enforce that. It's -- it's -- it would not, if we move the screen, the protections that we've taken away, the neighbors say they don't need, if we accept the plantings as they are, we are meeting the protective need that we sought to provide in the short term. I agree with you, your holistic long-term view, I agree that may very well be an issue. I guess going back to my question of about 15 minutes ago, this plan is enforceable. You guys can enforce that --

MR. SMITH: (Inaudible) -- yes.

MR. MACMANN: -- although it doesn't meet the typologies --

MR. SMITH: Right.

MR. MACMANN: -- and perhaps the width the arborist would -- is -- has been asked to enforce by us.

MR. SMITH: Yes. If that's the question, yes. It's enforceable. It has plant species on there. It has the physical location, so they can go out and verify that these plants were planted.

MR. MACMANN: Thank you, Mr. Smith. Thank you, Mr. Crockett.

MS. LOE: Mr. Stanton?

MR. STANTON: Mr. Crockett, just to verify. We can achieve 80 percent opacity with just plants and berms; is that what you're telling me -- with no fence?

MR. CROCKETT: We can. I'm not sure that your City arborist is saying that that conforms to that.

MR. STANTON: But could you do it -- can you do it?

MR. CROCKETT: Between what -- between what height? That's the issue. The

neighbors don't want a barrier. They don't want a fence, they don't want a barrier, they want it open.

MR. STANTON: Yeah. I --

MR. CROCKETT: So, you know, while we can provide screening or a landscape element, we don't want a solid barrier between the two properties. The neighbors don't want a solid barrier between the two properties.

MR. STANTON: Okay. This is where I'm at. This is where I'm at. I don't want to open up a can of worms because you know and I know if we give you a variance on this, every other contractor from here on out is going to be, like, I need a variance on landscaping. Everyone, and you know it's going to happen. Just like sidewalks, you know it. So what I'm trying to say, okay, I agree that the neighbors do not want a fence, they don't want a solid barrier. Can you give me 80-percent with just plants and dirt? Can it happen engineeringwise, mathematic scope, slope and everything. Can you do it?

MR. CROCKETT: It can happen, but it will go against what the neighbors have just -- have voiced that they want.

MR. STANTON: Okay.

MR. CROCKETT: We have come before this Commission for decades. This Commission and Council has asked us to go to the neighbors, get their input, seek their approval. Go to them and see what they want. Mr. Stanton, you're asking me to have a win-win. I'm bringing you a win-win tonight. I've got the neighbors on support, I've got my applicant who is in -- you know, willing to do what they want. I've got a win-win, and that's what we're asking for.

MR. STANTON: Okay. Now, a win-win, if we're going to go there. Okay? A win-win is not putting me in a position to have to attack variances from here on out, because every contractor is watching this show right now waiting for us to give you a variance on this landscaping. We will be flooded with landscape variances if we say, oh, Mr. Crockett, forget about it, just because the neighbors don't want it.

MR. CROCKETT: And the landscape variance and the landscape screening is there to serve a purpose, is to screen your development from the neighboring development. And I'm telling you that if you have both parties on both sides and both associations that are in favor to that development, I think then that -- that justifies -- gives good justification for a variance. If the other says no, hey, it's a totally different ballgame. But when we don't have a single person opposing what we're proposing here tonight, I think, yes, then it does justify a variance.

MR. STANTON: Good argument. Thank you.

MR. CROCKETT: Thank you.

MS. LOE: Any additional questions for this speaker?

MR. MACMANN: I just have a comment. You just made me agree with Paul Land.

MR. CROCKETT: I'm sorry for that. Thank you.

MS. LOE: Thank you, Mr. Crockett. This is still public comment, so -- yes.

MR. STANTON: It's about to be my anniversary, so --

MR. HALL: It's my ten-year -- this is my ten-year, and I'm with you guys. You guys seem like lovely people, but still my wife's -- sorry. But this precedent thing.

MR. STANTON: Name, please.

MR. HALL: I'm sorry. John -- I'm really not good at this. John Hull, 4307 Granite Springs Drive. Cool. I completely understand where you're coming -- this is actually Deja vu. Pat will tell you the same thing. I was here, like, four or five years ago for this precedent thing, and it was a similar concern. Pat -- and this has not happened, and I stopped it from happening actually. And what I would just tell you is that -- and you guys have more experience in this matter. When you have something where -- and I worry about precedents with my companies. Like, I can screw over a lot of people with precedents, but when there are specific circumstances where you have full neighborhood support all around you, an applicant who is extremely motivated to do the right thing, and when you look at it from a standpoint if you ever run into a situation exactly like this, similar to when I'm looking at my company on precedents, I'm going to grant it, honestly. That's me as a boss. I will look at it and say when that next person comes in and asks for a variance, you better clearly have all this stuff. You better have this situation, this situation, this situation, and I feel like we have that, honestly. And, like, I've been working so hard towards this. And so I would just tell you when it comes, I'm concerned about precedents all the time in my everyday life, but I would just tell you in this case, to me, this is a win on every single level. And the reason why there is Code in place is to protect me as a neighbor and protect the people who have spoken out tonight. And so I would -- I would just tell you, honestly, in the future, if something comes up like this, I think you will be able to clearly show what happened here.

MS. LOE: Mr. MacMann?

MR. MACMANN: Scenario.

MR. HULL: Sure.

MR. MACMANN: Thank you, sir. Ten years down the road, HOA turns over. They don't like what you've done.

MR. HULL: Yeah. Okay. So what -- specifically --

MR. MACMANN: What do you do?

MR. HULL: Specifically, what --

MR. MACMANN: I mean, the trees. It's not whatever.

MR. HULL: Specifically with this landscaping?

MR. MACMANN: Yeah.

MR. HULL: I find it very hard to believe that any HOA in the future is going to be upset with the enforceable. Once again, this is enforcement. Like, when you look at actually what this looks like, it is an enforceable plan. That's what I was told. Maybe somebody --

MR. MACMANN: I think it is. It's probably -- I went over it repeatedly with Planner Smith. I wanted to make sure that this is something that they could do.

MR. HULL: This, yes. And I worked -- and this has been three upgrades. I've talked to -- like, yes. If I -- I can honestly -- be honest with you, if I had talked to one person that said no. But when you think about ten years down the road, do you think that I'm going to have 100 percent people right now in this moment and go around on both sides of it and everywhere and say, like, I am being honest. I do think that they would fine with this.

MR. MACMANN: Well -- well, we shall see. I was just positing that. Thank you.

MR. HULL: Okay.

MS. LOE: Any additional questions?

MR. HULL: All right. Thank you, guys.

MS. LOE: I see none. Thank you. Any additional speakers? Seeing none, I'm going to close public comment.

**PUBLIC HEARING CLOSED**

MS. LOE: Commission, comment? Discussion, motions.

MR. STANTON: I'm going to say this. Oh, I'm almost there. Crockett almost did it. I'm almost there, but I'm still concerned. I'm concerned that you know -- we know how this is going to go. If we say yes, you think we've got sidewalk variances, man, every guy that comes in -- comes up here and asks for something will ask for a variance on this landscaping. Now I do agree that it seems like all the stars are aligned on this project -- this project.

MR. STRODTMAN: Mr. Stanton, my only comment would be that we look -- I think we look at every situation uniquely for what it is, and we try to apply the zoning and the rules across the board evenly with all of them, but we know every case is a little bit unique and different and they're not always the same apples to apples. And so I think you have to listen to the neighbors. I mean, if you go out to this -- this development, it's probably one of the nicest developments in our community. And, you know, these neighbors are not going to support -- I think they're going to put so much pressure on this

landowner if he does not fulfill it that they'll run him out of this neighborhood. I mean, I think they'll really turn on him if he doesn't do what he says he will. So I think as a result, I think that I tend to want to support them because that's -- you know, it's the neighborhood. They were so against Addison's initially, and now there's no one here today to speak against it. So I think it's a win -- you know, not to use your words, but I think it's a win-win because we are transitioning from a higher density use into more residential in a very nice community of our neighborhood -- in our community that wants this. And I don't think we're setting ourselves up for future because when Mr. Crockett brings the next deal and he wants to, you know, do something different, we'll be, like, you know, no. The residents don't want this or, you know. I plan on supporting it. I think it's a great project. I think it helps us with that west corner. That west corner, I think, should really scare everybody because it's a big chunk of land and it could really change things. So I think this is a good set continuing a good trend of a nice development that I hope can continue on to the west side.

MS. LOE: Ms. Burns?

MS. BURNS: I respect everything that's been said here tonight, but I agree with Mr. Strodtman. I think the fact that there has been no negative comment on this particular plan. Frankly, the landscaping out in Copperstone is spectacular. We went out there to get ideas when we were doing landscaping. I can't see that this would be skimpy or look like it wasn't appropriate and provide the screening that I think everything hopes for in their residential neighborhood.

MS. LOE: Mr. Toohey, do you have a motion?

MR. TOOHEY: Sure.

MS. LOE: Sorry. Ms. Rushing? We'll have comments on the motion.

MS. RUSHING: Yeah. I can do that.

MR. TOOHEY: Does she have comments?

MS. LOE: Do you have comments now, Ms. Rushing?

MS. RUSHING: It doesn't matter when I make it, but I believe the request is consistent with the rest of the development, which is they have fences, but they're not opaque fences. It has an open feeling. They have substantial green space and trees and I just think that their proposal is consistent with the overall look and feel of the development.

MS. LOE: Mr. Toohey?

MR. TOOHEY: I make a motion in Case Number 122-2019, a request by Crockett Engineering on behalf of HJRJ Investments to approve their request as the request has been stated.

MR. MACMANN: Second.

MS. LOE: Second by Mr. MacMann. Staff, does that cover approving the requested design adjustments?

MR. ZENNER: You're making a motion to approve with the landscape design adjustments, with the design adjustments, so that covers it.

MS. LOE: Any discussion on -- we have a motion on the table. Any discussion on that motion? I see none. Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr.**

**Strodtman,**

**Ms. Rushing, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. MacMann, Mr.**

**Stanton. Motion carries 8-0.**

MS. BURNS: Eight to zero, motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council.

**Motion to approve Case Number 122-2019, a request by Crockett Engineering on behalf of HJRJ Investments as the request has been stated.**

**Case # 136-2019**

A request by Crockett Engineering (agent), on behalf of the Broadway Shops, LLC (owner), for a major amendment to the existing Broadway Shops Lot 1 C-P Plan. The revision includes an updated Statement of Intent to revise the list of permitted uses. The 7.32 acre site is zoned PD (planned development) and is generally located northeast of the intersection of E. Broadway and Trimble Road and is addressed 2703 E. Broadway.

MS. LOE: May we have a staff report, please?

Staff report was given by Ms. Rachel Bacon of the Planning and Development Department. Staff recommends approval of the revised Statement of Intent.

MS. LOE: Thank you, Ms. Bacon. Before we move on to Commissioner questions, I would like to ask any Commissioner who has had any ex parte prior to this meeting related to Case 136-2019 to please disclose that now so all Commissioners have the same information to consider on behalf of this case. Seeing none. Are there any questions of staff? Mr. MacMann?

MR. MACMANN: Sorry. Ms. Bacon, I apologize. I did not read carefully when Mr. Zenner put this out. And this is just a procedural question. Was the medical marijuana dispensary noticed last, you know, Thursday or Friday, whenever he put this out?

MS. BACON: So there's three SOI revisions, so we noticed it as a revision to the Statement of Intent. When I did the public information meeting, I specifically noticed it as

marijuana as we spent more time with the case reviewing what was approved in 1996 and then what they're asking for today. I notice that there were, indeed, three uses that were being asked to be included, so we made it a little bit more general.

MR. MACMANN: Okay. I just didn't -- I guess I just didn't read things very carefully. Thank you.

MS. LOE: Any additional questions of staff? Seeing none, I'll open up the public hearing.

**PUBLIC HEARING OPENED**

MR. CROCKETT: Madam Chair, members of the Commission, Tim Crockett, 1000 West Nifong. I will not talk about variances. I'm not going to talk about landscaping, any of that stuff. We think this is a fairly straightforward request, we believe. It's a modification to a Statement of Intent to allow medical marijuana dispensaries, to allow the artisan industry, and then also update the Statement of Intent to allow for the light-vehicle repair, if you will, or the Break Time Convenience Store. So with that, again, I think it's fairly straightforward. I'm happy to answer any questions. I'm not doing any site modifications, just the simple updating of the Statement of Intent. Mr. Jay Leonard, who is the owner of the property, is here, as well, to speak if need be.

MS. LOE: Any questions for Mr. Crockett? I see none.

MR. CROCKETT: Thank you.

MS. LOE: Thank you. Any additional speakers on this case? Seeing none, we'll close public comment.

**PUBLIC HEARING CLOSED**

MS. LOE: Commission discussion? Mr. Stanton?

MR. STANTON: I'd like to make a motion, ma'am, expeditiously. As it relates to Case 136-2019, Broadway Shops PD amendment, I move to approve the revised Statement of Intent.

MR. STRODTMAN: Second.

MS. LOE: Second, Mr. Stodtman. We have a motion on the floor. Any discussion on this motion? I see none. Ms. Burns, may we have a roll call, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Mr. Stodtman,  
Ms. Rushing, Mr. Toohey, Ms. Burns, Ms. Carroll, Ms. Loe, Mr. MacMann, Mr. Stanton. Motion carries 8-0.**

MS. BURNS: Eight to zero, motion carries.

MS. LOE: A recommendation for approval will be forwarded to City Council. That concludes our public hearings for the evening.



**As it relates to Case 136-2019, Broadway Shops PD amendment, move to approve the revised Statement of Intent.**

**Yes:** 8 - Burns, Loe, Rushing, Stanton, Strodman, Toohey, MacMann and Carroll

**Excused:** 1 - Russell

## **VII. PUBLIC COMMENTS**

MS. LOE: Mr. Crockett, any last comments?

MR. CROCKETT: I would like to have a couple comments. Regarding the conflicts that we have in the subdivision regulations in the UDC. I think those are some things that -- that we need to work on because, again, tonight if we -- if we don't get a modification, a design modification that's requested and we're required to grant a utility easement, I'm going to have to come back before this Commission again and ask permission to build a building in a utility easement or vacate a utility easement, or push the building back and get outside of the -- get outside of the two feet that's required by UDC. So I understand staff's point of view absolutely, but I think that they are conflicted because they have issues between the subdivision regulations and the UDC, and I think we need to look at those a little bit closer and see what we can do to modify those. I appreciate the time.

MS. LOE: Thank you. Any time.

MR. MACMANN: I just wanted to respond to Mr. Crockett's statement there. That's why I would move to shoot it down. It's not -- it's not a resolved issue which we'll keep having. Just wanted to let you know that.

MR. CROCKETT: Right. Thank you. I appreciate it. Thank you.

MS. LOE: Thank you. I see no other public.

## **VIII. STAFF COMMENTS**

MR. ZENNER: Your next meeting will be on June 20th. We do have a work session at 5:30; it will be in 1B, and we will have a regularly scheduled meeting at 7:00 p.m. You have a number of items on that agenda, so we have a single subdivision plat, this Gas Light Industrial Park Plat 4. This is a final minor up off of 763 North just south of -- south of where we have ES&S's facility constructed in that particular area north of where the current Moser's is at Brown School Road and 763. The Lake Broadway plat, that will be - or plan, that will be on the agenda hopefully with a resolution of the property owner issue. And then you have a rezoning request for McKee Street at 4421. This is a rezoning request for, if I'm correct, a multi-family development at that location. It's a corner lot. Auburn Hills commercial, and this is the property that is inclusive of the Moser's and property that is bounded on the east by Edenton, on the west by 763, and on the south by Brown School, and then on the north, International Drive. This is also the general location of where our north police substation is being proposed. The rezoning

request has to deal with the remaining PD property that is currently owned by Commerce Bank that was reacquired through loan default, so they are looking at bringing this property out of the planned zone that it has existed in and having it zoned to a combination of different commercial classifications, as well as office. So this is obviously a process that will be a little bit complex in its zoning designations and distribution, but one that may facilitate additional development and that's the purpose behind it -- easier resale. And then finally the last item that we have on this upcoming agenda is a master plan update for Columbia College. As many of you are aware, higher education institutions, with the exception of the University of Missouri, are required to provide us campus master plans as it relates to development of properties that are under their control. The master plan affords an opportunity for the actual academic institution to be able to construct university-related or college-related facilities without having to have full compliance with our zoning standards, the underlying zoning requirements. This particular request is an addition of a parcel that was not included on the last master plan update to the northwest of the athletic complex, so it is a very small parcel of property, but it has recently been acquired, and in order to assist in being able to facilitate some uses of the structure that are not consistent with the underlying zoning, it is being added to their master plan through this formal process. So just so we have an idea of where all of our properties are, Gas Light here up on 763 North, and then you have obviously, the Lake Broadway property there on Gary and Pershing, and then our three public hearing projects, the McKee-Clark Apartments there on Clark Avenue and McKee right on the corner, our Auburn Hills project that I just described, and then, of course, our Columbia College master plan update. These are the particular items that we have on the agenda that are forthcoming. Just so the public is aware and as has been addressed this evening in work session, we welcome aboard our newest Planning Commission member, Dr. Valerie Carroll, as well as we welcome back Tootie Burns as our -- continuing forward as a new appointee on the term, and absent this evening with us, but reappointed as well is Lee Russell. And it is a pleasure to have a full Board again. We are aware that there will be some absences coming for the June 20th meeting. Ms. Russell will be absent again, as well Mr. Strodman has given us notice that he will be absent, as well. Are there going to be any other absences, given that we will be -- we only have one more that we are going to be able to have before we may potentially have quorum issues. Okay. So nobody is taking a vacation. That's good to hear. We will see you then on June 20 at 5:30 p.m. over in 1B for a work session discussion, and that work session discussion, just so you can all be prepared, brace oneself, will be reengaging the discussion of short-term rental, which we will just have a general conversation, I have a feeling, as to

how we need to pursue forward with that topic. I will be out of town until the 20th, however, the agenda will be prepared in my absence. I will prepare it myself, actually, from where I will be, just how committed I am to my job. However, I am not quite sure I will have attachments as it relates to the short-term rental discussion. So we are working from the last draft that we had worked on, and that is draft number three, and we were going to need to engage in conversation as it related to what the public concerns were based on our last public hearing, so trying to resolve some of the issues of what we believe need to be still addressed maybe in a future fourth revision to the actual proposed amendment. With that, that's all we have to offer this evening. Thank you much for your attention. We will try to do better in regards to addressing some of the issues that Mr. Crockett brought up this evening. It is unfortunate as we do have to deal with particular issues in administration of our Code that we, as a staff, have limited authority to just modify. It is not uncommon that I hear, because I am on the receiving end often of frustration from our design professionals, well, that's just not practical. Unfortunately, what is not -- what is impractical from the perspective of our design community, we are not authorized to just waive. And unfortunately with not only this body, but with the Board of Adjustment, that is what you are here for. So we appreciate your diligence in listening to the arguments tonight and listening to a little bit of the discussion amongst Mr. Crockett and our staff as to how we apply our Code, but, unfortunately, that is the way that the process operates. I don't think I can develop a mousetrap or a set of regulations that is inordinately clear for everyone. We are always going to have a little bit of disagreement. Hopefully we can avoid the amount that we had this evening before it comes to you, because that is not only embarrassing, I think, for us, it's embarrassing on behalf of the client, as well. But I appreciate again your time.

MS. LOE: Thank you, Mr. Zenner.

## **IX. COMMISSIONER COMMENTS**

MR. STANTON: Move to approve -- I mean, move to adjourn.

MS. LOE: Mr. MacMann?

MR. MACMANN: I would gladly allow Mr. Stanton to do it. I'd just like to publicly welcome Dr. Carroll and say thank you very much.

MS. LOE: Welcome, Dr. Carroll.

## **X. NEXT MEETING DATE - June 20, 2019 @ 7 pm (tentative)**

## **XI. ADJOURNMENT**

MS. LOE: Mr. Stanton --

MR. STANTON: Forget about it.

MS. LOE: -- has moved -- no. We need a second.

MR. STRODTMAN: Second.

MS. LOE: Second, Mr. Strodman. We are adjourned.

(The meeting adjourned at 9:47 p.m.)

(Off the record.)

**Move to adjourn.**